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PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA

# REPORT OF THE PREPARATORY COMMISSION, UNDER PARAGRAPH 11 OF RESOLUTION I OF THE THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA, ON ALL MATTERS WITHIN ITS MANDATE, EXCEPT AS PROVIDED IN PARAGRAPH 10, FOR PRESENTATION TO THE ASSEMBLY OF THE INTERNATIONAL SEABED AUTHORITY AT ITS FIRST SESSION

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# STATEMENT OF THE CHAIRMAN OF THE PREPARATORY COMMISSION REGARDING THE UNDERSTANDING ON RESOLUTION OF CONFLICTS AMONG APPLICANTS FOR REGISTRATION AS PIONEER INVESTORS

Distinguished delegates,

This is the second meeting on resolution II since we started this meeting in Geneva. I have called this meeting in order to report to you the results of the efforts that I have been making with regard to finding a solution to the problem of conflicts arising from the overlap of claims with regard to pioneer investors.

On Friday, I reported to you in broad terms on the progress that had been made up to that stage in my efforts in accordance with the mandate that you gave me in Kingston to use my good offices to help the parties concerned reach an understanding. Since Friday, last week, further consultations have taken place and those consultations have made it possible for me to make this report to you.

The efforts that we started in Kingston have been successful in the last few days and I am glad to report to the Plenary that an understanding has been achieved amongst the parties concerned. I will read that understanding to you and, later on, it will be issued as an official document so that it can be available to all delegations.

The understanding is in two parts. The first part is an understanding on the resolution of conflicts among applicants for registration as pioneer investors and the second part is an understanding on the procedure for conflict resolution among the first group of applicants.

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## PART I

## UNDERSTANDING ON RESOLUTION OF CONFLICTS AMONG APPLICANTS FOR REGISTRATION AS PIONEER INVESTORS

In order to facilitate the registration as pioneer investors of the first group of applicants, the following understanding has been reached in the consultations conducted by the Chairman of the Preparatory Commission:

1. The first group of applications submitted to the Preparatory Commission will be considered simultaneously by the Preparatory Commission at its next session and, if they are found to be in conformity with the rules for the registration of pioneer investors, they will be registered simultaneously.

2. The first group of applicants will include all those who have submitted applications to the Preparatory Commission by 9 December 1984.

3. Immediately after 9 December 1984 all applicants will meet to exchange co-ordinates of areas claimed in their applications, in order to ascertain whether there are any overlaps.

4. In case of overlaps, it is agreed that the applicants concerned will proceed to resolve the conflicts amongst themselves.

5. All conflicts should be resolved by 4 March 1985 and a report shall be made by the parties to the Chairman of the Preparatory Commission.

6. In the case of applications which have already been submitted to the Preparatory Commission, the particulars provided in such applications may be re-submitted by the applicants with the modifications necessitated as a result of the rules for the registration of pioneer investors, without affecting the date of the original submission of such applications.

7. Every effort will be made to complete the rules for the registration of pioneer investors during the current meeting of the Preparatory Commission. These rules will be adopted by the Preparatory Commission immediately after the convening of its next session.

8. Following the adoption of the rules for the registration of pioneer investors, the Preparatory Commission will proceed to register the first group of applicants in accordance with the procedures set out in those rules. No application for an area located in a geographical region will be registered if there is a pending conflict over areas claimed in the same geographical region between pioneer investors of the first group of applicants.

9. This understanding will apply to all applicants who will have submitted their applications to the Preparatory Commission by 9 December 1984.

10. The registration of the first group of applicants does not prejudice the right of other potential pioneer investors to submit applications for registration with the Preparatory Commission, taking into account the areas already allocated or designated as reserved areas.

## PART II

## UNDERSTANDING ON THE PROCEDURE FOR CONFLICT RESOLUTION AMONG THE FIRST GROUP OF APPLICANTS

1. All applicants agree to meet on 17 December 1984 to exchange co-ordinates of areas claimed in their respective applications in order to ascertain if there are any overlaps between the applications submitted for registration as pioneer investors to the Preparatory Commission.

2. If an overlap of claims is found between two or more applicants, the conflict should be resolved through negotiations.

3. The parties concerned with such overlaps shall meet no later than 11 January 1985 in order to begin negotiations to resolve conflicts.

4. These negotiations must be completed as between all the parties involved in the conflicts by 4 March 1985.

5. Each of the parties concerned in such negotiations shall report to the Chairman of the Preparatory Commission on the result of the negotiations as soon as these have been concluded, but no later than 8 March 1985.

Distinguished delegates,

That is the end of my report. I will shortly adjourn the meeting and will resume our work on Monday on resolution II. Last Friday, I had pointed out the pending issues with regard to resolution II. On Monday we are going to begin consideration of draft rules 2, 4 and 7 contained in LOS/PCN/WP.16/Rev.1 which we left pending after the first reading. Those rules relate to the issue upon which I have made a report this morning. Then we will proceed to consider draft rules 14, 15 and 16. We all remember that draft rules 14 and 15 deal with the issue of the Group of Technical Experts and draft rule 16 deals with confidentiality. In dealing with these rules, we will, of course, take into account the other working papers which were submitted in Kingston that is LOS/PCN/WP.18 submitted by the Group of Seven States; and LOS/PCN/WP.19, which was submitted by the Group of Five States. And, as you heard in my report, attempts will be made to complete the consideration of these pending rules so that we should be in a position to adopt the rules for registration at the beginning of the next session. In that regard, apart from the consideration of the substance of the draft rules 1 have mentioned, we will also have to take a decision on draft rules 21 to 27, that is, how to reflect them whether they are going to be a substantive part of the rules or an annex to the rules.

With that, distinguished delegates, I will adjourn the meeting at this juncture and we will meet on Monday in this hall to continue our deliberations.

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Fourth session
Kingston, Jamaica, 17 March-11 April 1986

# REPORT BY THE CHAIRMAN OF THE PREPARATORY COMMISSION REGARDING THE RESOLUTION OF CONFLICTS AMONG APPLICANTS FOR REGISTRATION AS PIONEER INVESTORS

At the end of the 1985 summer meeting in Geneva I had indicated that I would continue the consultations with the first group of applicants during the inter-sessional period. I had also requested all the parties concerned to continue the consultations among themselves. The first group of applicants responded to this request and held two meetings in December 1985 and January 1986. My request to them included certain elements which I felt would advance our work on the implementation of resolution II if they were examined carefully. The consultations undertaken by the first group of applicants fully took into account the elements I had suggested.

After their meeting in January 1986 the first group of applicants reported to me and I invited them to Tanzania so that we could examine together the results of their efforts. They responded favourably to the invitation and we met in Arusha, Tanzania, from 3-5 February 1986. All the four applicants, France, India, Japan and the Soviet Union were represented. The Under-Secretary-General and Special Representative of the Secretary-General, Mr. Nandan, also attended the meeting.

The Arusha meeting was very fruitful. An understanding was reached and on the basis of it I believe we have made a major step forward. That understanding contains elements which, if pursued with determination, would yield a solution acceptable to the first group of applicants and the Commission without prejudicing the interests of the potential applicants.

At the end of the Geneva meeting I had also requested the group of potential applicants to continue consultations among themselves and with the first group of applicants. One member of that group reported to me in January on the efforts which had been made. I briefed the first group of applicants and as a result I was authorized to use the Arusha Understanding to continue consultations with the potential applicants. If I had sufficient time I would have made arrangements to meet with the potential applicants before the opening of this Kingston Session of the Commission.

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On the assumption of new responsibilities in my country in November 1985 I felt I would not be able to serve the Commission fully as Chairman. I had therefore thought I would continue as Chairman until this session and then request the Commission to release me and elect another Chairman. In view of the stage we have reached in the discharge of the mandate you gave me with regard to the implementation of resolution II, a number of delegations have requested me to consider carrying that mandate a step further. I have considered the request and have accepted to continue as Chairman until this summer.

In order to realize this intention I would like to appeal to all parties concerned to continue consultations and reach an understanding so that I could fulfil my mandate and happily take leave of the Commission at the beginning of the summer meeting. In order to facilitate progress in these consultations and to provide the necessary guidance, I shall remain in touch with the Acting Chairman and the Special Representative of the Secretary-General for the Law of the Sea whom I have requested to assist in this matter.

I have suggested one of the Vice-Chairmen should lead the work of the Commission and I am confident you will all give him the assistance and co-operation that you have given me.

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Fourth session
Kingston, Jamaica
17 March-11 April 1986

## STATEMENT MADE BY THE ACTING CHAIRMAN OF THE PREPARATORY COMMISSION

1. During this session the work of the Plenary was divided into the following parts: (a) organization of the work of the Commission, (b) tribute to Mr. Olof Palme, former Prime Minister of Sweden, (c) congratulations to His Excellency Joseph Warioba and election of Mr. Jaap A. Walkate, Chairman of Special Commission 3, (d) declaration adopted by the Preparatory Commission, (e) preparation of the rules, regulations and procedures relating to the various organs of the Authority and (f) the implementation of resolution II.

### A. Organization of work

2. On 17 March 1986 the Plenary, on the recommendation of the General Committee, adopted a programme of work which enabled all the special commissions and the plenary on the Authority to meet. The work of Special Commission 2 and Special Commission 3 was focused, as had been done before, on the second and third week of the present session of the Preparatory Commission.

### B. Tribute to Mr. Olof Palme, former Prime Minister of Sweden

3. On 18 March 1986 the Plenary heard statements made in tribute to the memory of Olof Palme, former Prime Minister of Sweden.

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## C. Congratulations to His Excellency Joseph Warioba and election of Mr. Jaap A. Walkate, Chairman of Special Commission 3

4. At the next meeting on 20 March 1986, the Acting Chairman Mr. I. G. Jhingran, on behalf of the Preparatory Commission, congratulated His Excellency Joseph Warioba on his elevation to the office of Prime Minister of Tanzania. At that meeting also, the plenary elected Mr. Jaap A. Walkate as the new Chairman of Special Commission 3. He replaced Mr. Hans Sondaal of the Netherlands who had resigned the chairmanship owing to other obligations in his Government which did not permit him to continue as Chairman of Special Commission 3.

## D. Declaration adopted by the Preparatory Commission

5. On 4 April 1986 the Group of 77 submitted a draft declaration (LOS/PCN/L.29) which recalled the earlier resolutions of the General Assembly and the provisions of the United Nations Convention on the Law of the Sea and deplored "the fact that the United Kingdom of Great Britain and Northern Ireland and the Federal Republic of Germany have issued licences for the exploration of parts of the Area". It reaffirmed the Preparatory Commission's declaration of 30 August 1985 (LOS/PCN/72) and reiterated the Preparatory Commission's rejection of any claim, agreement or action which was incompatible with the United Nations Convention on the Law of the Sea and related resolutions, asserting that such actions were wholly illegal and devoid of any basis for creating legal rights.

6. On 11 April 1986 the draft declaration was put to the vote at the request of the German Democratic Republic as Chairman of the Eastern European Group. The plenary adopted the draft declaration contained in document LOS/PCN/L.29 with 59 votes to 7, with 10 abstentions.

## E. Preparation of the rules, regulations and procedures relating to the various organs of the Authority

7. At the present session in Kingston, the Plenary held 10 informal meetings on the Authority. During those meetings, it completed the first reading of the draft rules of procedure of the Council of the International Sea-Bed Authority and started consideration of the draft rules of procedure for the Legal and Technical Commission.

8. With respect to the draft rules of the Council, the plenary examined draft rules 73 to 85 contained in document LOS/PCN/WP.26, circulated on 29 March 1985 and also draft rules of section X, which were submitted by the Secretariat and circulated in document LOS/PCN/WP.26/Add.1 on 20 March 1986. While considering the draft rules of procedure of the Council, the plenary had before it, in addition to the proposals made at the previous session by certain delegations (documents LOS/PCN/WP.28 and Corr.1 and LOS/PCN/WP.29), amendments suggested to section X by the delegations of Belgium, the Federal Republic of Germany, Italy, Japan, the Netherlands and the United Kingdom, circulated on 25 March 1986 in document

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LOS/PCN/WP.33; as well as the amendments contained in paragraph 5 of document LOS/PCN/WP.32 submitted on 25 March 1986 in respect of the draft rules of procedure of the Legal and Technical Commission by the delegations of Bulgaria, the Byelorussian Soviet Socialist Republic, Czechoslovakia, the German Democratic Republic, Hungary, Poland, the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics.

9. By completing the first examination of the draft rules of procedure of the Council, the plenary, at the present session, provisionally adopted without amendments draft rule 79 and draft rule 82 as orally amended. Draft rule 74 was provisionally adopted with the understanding that the word "other" should be put in square brackets. As far as draft rules 73, 75-78, 80, 81, 83-85 and a new rule 86 suggested in document LOS/PCN/WP.29 were concerned, their consideration was left in abeyance pending further discussion on the second reading of the revised draft rules of procedure of the Council which should be prepared by the Secretariat for the next session of the Preparatory Commission.

10. With respect to section X of the rules of the Council (LOS/PCN/WP.26/Add.1), the plenary, at its meeting of 7 April 1986, provisionally adopted without amendments the third, fifth, sixth and seventh of its draft rules and also the first and fourth rules as amended.

11. Different views were expressed with respect to the second rule of section X embodied in document LOS/PCN/WP.26/Add.1 on the question of the criteria to be taken into account in selecting the members of the Economic Planning Commission and of the Legal and Technical Commission.

12. In the report of the Chairman on the work of the previous session, it was stressed that financial matters constituted one of the "hard-core" issues facing the Preparatory Commission. The present session proved it again. When the plenary dealt with draft rules of procedure of the Assembly, the consideration of a proposal for the establishment of the Finance Committee had been postponed because a provision to that effect was included in the draft rules of procedure of the Council. Nevertheless, when the plenary came at the present session to consideration of the provision on the Finance Committee, it appeared that consideration of that matter should be postponed again, since the overwhelming view was that all matters concerning finance should be considered by the Preparatory Commission at the appropriate stage in their entirety.

13. With reference to the issue of subsidiary organs of the Council in general, it should be noted that substantial debate developed at the present session on the criteria to be used for the composition of such organs, the majority required for elections and on the ways of preparing their rules of procedure. Lack of agreement on those elements prevented the plenary from approving the relevant draft rules of the Council.

14. Consideration of the draft rules of procedure for the Legal and Technical Commission was started but not completed. In examining the rules, the plenary had before it the draft prepared by the Secretariat and circulated on 28 February 1986 in document LOS/PCN/WP.31; two sets of amendments submitted on 25 March 1986 by the

delegations of Bulgaria, the Byelorussian SSR, Czechoslovakia, the German Democratic Republic, Hungary, Poland, the Ukrainian SSR and the USSR; and submitted on 3 April 1986 by the delegations of Belgium, the Federal Republic of Germany, Italy, Japan, the Netherlands and the United Kingdom; and an amendment to paragraph 2 of rule 17 submitted on 4 April 1986 by Uruguay, circulated in documents LOS/PCN/WP.32, LOS/PCN/WP.34 and LOS/PCN/WP.35, respectively.

15. The plenary examined 21 of the 62 draft rules of the Commission and provisionally adopted rules 5, 12 and 12 bis (proposed in document LOS/PCN/WP.32), without amendments and rule 9 as orally amended. The text of draft rule 10 was provisionally adopted as orally amended, but with respect to it, a decision was taken to delete the rule from the rules of procedure of the Commission and to include its text as paragraph 2 of the fourth rule (sect. X) of the draft rules of procedure of the Council. It was decided to adopt the text of rule 16 provisionally as orally amended and to place the text as the second paragraph of rule 15 without prejudice to any outcome of further discussions on that rule. Since there was no possibility of reaching a general agreement on rules 1-4, 6-8, 11, 13-15, because of the divergent views expressed during the debate, their further consideration was deferred until the plenary took up the second reading of the draft rules of procedure for the Legal and Technical Commission. Consideration of the draft rules 17-21 was not completed by the plenary at the present session.

16. It should be noted that, although in the course of the debate on the draft rules delegations generally agreed that a small body, like the Legal and Technical Commission, should have simple and concise rules of procedure, they differed as to what extent such rules should be simplified. Delegations also disagreed as to whether that matter should be left open in the rules of procedure allowing the Commission to meet as often as required for the efficient exercise of its functions.

17. With reference to the issue of incompatible activities and confidentiality (rule 11 of the draft rules of the Legal and Technical Commission), it was admitted that various aspects of that matter emerged in consideration of different activities to be exercised under the provisions of the Law of the Sea Convention. The issue of confidentiality of data and information was a general one, in the sense that it was the concern of other commissions beside the plenary. Thus, a suggestion which received some support was made to tackle that issue as a package within the Preparatory Commission.

## F. Implementation of resolution II

18. At the end of the Geneva meeting last summer, the Chairman of the Preparatory Commission, His Excellency Mr. Joseph Warioba, had informed the Preparatory Commission that, in order to enable the Commission to implement resolution II, he would conduct intersessional consultations on the applications of the first group of applicants for registration of mine sites. He had also informed the Preparatory Commission that he would report to the plenary at the latest by the beginning of the second week of the current session and if no agreement had been reached he would request the Commission to take such action as may be appropriate.

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19. Accordingly, the Chairman in the exercise of his good offices did carry out consultations during the intersessional period on which he reported to the Commission on the first day of this session through me.

20. In his report, the Chairman informed the Preparatory Commission that substantial progress had been made during the intersessional period and that an understanding was reached at Arusha, United Republic of Tanzania, during his consultations with the four applicants in February. He further stated that he was in the process of consultations on the Understanding with all interested parties in the Commission. As you know, at the beginning of this session, the Chairman had mandated me to continue the consultations with the assistance of the Special Representative.

21. Since the beginning of the session, I have undertaken intensive consultations on the Arusha Understanding. These were held with different interest groups and individual delegations. The Arusha Understanding deals with two important aspects:

(a) The resolution of conflicts due to overlapping claims;

(b) The allocation of mine sites to the first group of applicants and the designation of reserved areas for the Authority.

22. With respect to the first, the Understanding resolves the conflicts among three of the first group of applicants which have overlapping claims. The fourth applicant, namely India, has no such conflicts. The Understanding resolves conflicts among the first group of applicants on the basis of sharing of overlapping areas. This principle of advanced relinquishment provides the means for meeting the concerns of potential applicants.

23. With respect to the second aspect, i.e. the allocation of mine sites to the first group of applicants and the designation of reserved sites for the Authority, the Understanding takes into account certain practical problems which have made it difficult for the applicants to conform strictly with the provisions of resolution II, paragraph 1 (e). The Understanding attempts to deal with this difficulty, while providing at the same time that the Authority will receive one mine site from each applicant. These mine sites should be of equal estimated commercial value to those allocated to the first group of applicants, including those areas which they wish to retain for themselves. These are the principal features of the Arusha Understanding.

24. During this session, many clarifications were provided by me with the assistance of the Special Representative and that of Ambassador Kateka of the United Republic of Tanzania. The first group of applicants has also assisted in this process by responding to questions that were put to them, sometimes in writing and sometimes through me. I believe that they have also discussed the Arusha Understanding with members of the Commission on an individual basis.

25. In the course of these consultations I have been able to ascertain the reactions of most delegations. It would be my assessment that most of them believe that the Arusha Understanding is a good basis for resolving conflicts, and for

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accommodating the interests of the Authority and those of the first group of applicants. The situation which now faces the Preparatory Commission was not envisaged at the time when resolution II was formulated. It was not foreseen that there would be such a large concentration of claims in one small area of the ocean nor that, as a result, applicants would encounter difficulties in dividing the areas claimed by them in a manner which would conform to the provisions of resolution II.

26. In these circumstances, we have to deal with the situation as we find it. As a consequence, there is need for flexibility in the application of certain provisions of resolution II, while preserving the basic elements of the parallel system enshrined in the Convention.

27. It is my assessment that, while considerable progress has been made, further consultations are necessary. Certain delegations have informed me that they require more time to consider the Arusha Understanding to enable them to respond fully. In my judgement, there is certainly sufficient time between now and the next meeting to do so. The Chairman has informed me that he is ready to undertake consultations intersessionally with interested delegations with a view to enabling the Commission to proceed with the registration of the applications of the first group of applicants at the next meeting of the Preparatory Commission.

28. For my part, I shall report to the Chairman on the consultations and discussions that I have held with delegations in the last four weeks. In fact, the Chairman is already aware of most of the developments since I have been in touch with him during this period.

29. This is my report on the efforts made for the early implementation of resolution II.

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New York, 11 August-5 September 1986

## STATEMENT MADE BY THE CHAIRMAN OF THE PREPARATORY COMMISSION AT THE 31st PLENARY MEETING, HELD ON 22 AUGUST 1986*

1. At the beginning of the week I began carrying out consultations on the question of registration of pioneer investors. Indeed, during the entire week I have held a series of meetings with different groups but mainly the meetings have been with the first group of applicants, the potential applicants and the Group of 10, which represents the Group of 77.

2. In the course of these five days I think I have held more than 20 meetings and much progress was made with regard to the issues with which we are dealing.

3. As you all remember, at the second session in Kingston in 1984 you gave me a mandate to assist the first group of applicants in their efforts to resolve problems of overlap. Since that time I have been working wih them and the other interested groups and, from time to time, I made reports to the Commission.

4. At the summer session in 1984 in Geneva I reported to you what understanding had been reached with regard to the substance and the procedure for resolving conflicts of overlaps between the first group of applicants; and, at the end of that year, as a result of that understanding the first group of applicants met and exchanged co-ordinates and then proceeded to carry out negotiations which enabled them to report to me before the spring meeting of the Commission in 1985. 1/

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* Distributed in accordance with the decision taken by the Preparatory Commission at its 31st plenary meeting.

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5. When they reported it appeared that they could resolve their problems of overlap but that, in doing so, some practical problems would arise.

6. I held a series of meetings with them, sometimes together, sometimes individually, and also with other groups, particularly the group of potential applicants and, at the summer session in 1985 in Geneva, we continued the consultations with the help of the Special Representative and at the end of the session I reported to you that I had requested all the parties concerned to continue with the consultations, taking into account elements that I thought would assist in the resolution of the practical problems that we are facing.

7. In particular, three issues were identified which had to be addressed if progress was to be made: first, the interests of the applicants should be adequately reflected; secondly, there should be an accommodation of the interest of the Authority within the central zone; and thirdly, the interests of the potential applicants should be taken into account.

8. All the groups, particularly the applicants and the potential applicants, devoted a lot of time to negotiations during the intersessional period between the summer session and the spring session this year and by the beginning of this year they reported to me on the progress they had made.

9. As a result of that report I invited representatives of the four applicants, that is France, India, Japan and the Union of Soviet Socialist Republics, to meet me before the beginning of the spring session and they did meet me in Arusha, United Republic of Tanzania, in February.

10. The result of that meeting has been conveyed to you in the form of what is popularly known as the Arusha Understanding. The main elements of the Arusha Understanding addressed the issues that I outlined to all the groups in Geneva that any solution, to be acceptable generally, would have to take into account the interests of the applicants, the Commission and the potential applicants. You will find in the Arusha Understanding that those elements are reflected.

11. There is assurance that the applicants will be accommodated as a result of resolution of conflicts; the Arusha Understanding also accommodates the interests of the Commission or the Authority and opens the door for further consultations which would accommodate the interests of the potential applicants.

12. At the session of the Commission in spring 1986 in Jamaica, further consultations took place. The first exchange on the Arusha Understanding took place under the chairmanship of the Acting Chairman, Mr. I. G. Jhingran, assisted by the Special Representative. Many delegations had seen the Arusha Understanding for the first time and, therefore, needed more time to study it in the hope that at this session they would be in a better situation to take a more definite position. I had in the meantime, during the intersessional period, received a number of communications from different interest groups on the Arusha Understanding and while it was not possible for me to have joined the intersessional consultations because I was waiting to hear reactions, in particular from some of the interest groups which are potential applicants, consultations were nevertheless begun during the

week preceding this session by the Special Representative on my behalf. These consultations continued under the Acting Chairman during the first week of the session and I am pleased to record that considerable progress was made toward achieving some understanding.

13. Since I arrived in New York I have undertaken the consultations with a view to arriving at some solution in this matter. I have had co-operation from all the groups. I have met the potential applicants several times and I have met the Group of 10 representatives of the Group of 77 several times and whenever I had time I met other groups which have also been working very hard to try and assist in the process.

14. Yesterday I had floated certain ideas in an informal paper with the hope that if we could find common agreement then this afternoon I would have been in a position to submit that document to the Commission and request it to accept the document as a basis for further work in this field. Unfortunately, there was not enough time to allow us to complete work on that document and, unfortunately, I cannot be with you next week so that we could continue working together on this document. But the document incorporates what I consider to be the basis of a compromise. First, it tries to summarize the main elements of the Arusha Understanding: in some cases with modification. Secondly, it attempts to provide procedures which would assist the Commission: first, to pursue efforts aimed at resolving conflicts of overlap particularly between the first group of applicants and the potential applicants within a definite time-frame; secondly, to find an adequate mechanism for registration of the first group of applicants.

15. This morning I met a number of groups to find their reaction to that document. 2/ I have met with the group of the first applicants; I have met with the potential applicants; I have met with the Group of 10, representing the Group of 77; and I have also met with the Group which is popularly known as the Friends of the Convention. All the groups had very positive comments about the document. In fact, all the groups found a large part of that document acceptable. However, there are certain issues which, because of lack of time, could not be resolved before my departure.

16. The document will be circulated by the Secretariat to the groups for further consultations during this session and I would urge you to pay particular attention to paragraph 3 which embodies a timetable. I believe that it is important that we should work with a particular timetable in mind. The goal of that timetable should be registration but it should also accommodate the interests of all groups concerned and it should give enough time for consultations and negotiations to take place in order to resolve the remaining issues.

17. I also appeal to the groups to continue the consultations so that we can finish our work within the prescribed time-frame.

18. I had intended that at this session I would also, if required, assist the Commission in the election of a new chairman. Indeed, sometime during the middle of the week I had a meeting with the chairmen of the regional groups for the purpose of consultations to see how the Commission could proceed to elect a new chairman. At that meeting, the chairmen briefed me of the prevailing situation.

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They suggested that, since we are making so much progress on the issue of registration of Pioneer Investors and since the main obstacle of reaching that goal has been the problem of overlaps and that, for the last three years, I have had the mandate of assisting the States concerned to reach agreement, I should continue as Chairman, at least until the next session. This would enable me to assist the parties concerned in their efforts to try and resolve problems of overlaps.

19. I have accepted this request and I have appealed to all groups that I do so on the understanding that intensive consultations will be continued during the intersessional period with the purpose of resolving all the problems before the beginning of the next session. I have informed all groups that I will be available at all times between now and the next session. Since it is not easy for me to travel outside Tanzania, I have invited them to come to Tanzania to continue with the consultations. I am confident that if we work in good faith and with determination we will have reached a stage where we can say this was work well done.

20. So I sincerely hope that you will continue with the consultations. The Acting Chairman will conduct the negotiations and I am sure that you will give him the co-operation that you have given me during this week. It is my hope that by the end of this session these ideas which I leave with you will come out in concrete form so that we will have a basis on which to work during the intersessional period and also for the next session.

## Notes

1/ See the statement made by the Chairman of the Preparatory Commission, document LOS/PCN/L.8, Geneva, 1984.

2/ See annex.

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## Annex

## STATEMENT MADE BY THE CHAIRMAN OF THE PREPARATORY COMMISSION ON THE IMPLEMENTATION OF RESOLUTION II ON 21 AUGUST 1986

The Commission can make progress on the following basis:

1. The Preparatory Commission takes note with appreciation that France and the Soviet Union and Japan and the Soviet Union have resolved the overlaps that had arisen in their respective applications for the registration of areas for mine sites. The result of their agreements would be reflected in the amended applications to be submitted by each of them.

2. The Preparatory Commission invites the four applicants, namely, France, India, Japan and the USSR, to submit to the Secretary-General by 25 March 1987 amended applications in accordance with resolution II and subject to the guidelines set forth in this statement.

3. The Preparatory Commission agrees that the Chairman convene a meeting of the General Committee at the beginning of the second week of the next session of the Preparatory Commission in order to consider the amended applications and decide on their registration.

4. The Preparatory Commission agrees that the General Committee shall consider the applications, taking into account assessments of the applications provided by a group of technical experts. The group of technical experts shall determine, inter alia, whether the applications are in conformity with resolution II, subject, however, to the guidelines and procedures set forth in this statement and make recommendations on the allocation and designation of areas in respect of each application.

5. The group of technical experts shall be appointed by the Chairman of the Preparatory Commission from a list compiled by the Secretary-General of the qualified candidates proposed by members of the Preparatory Commission. The membership of the group of technical experts shall not be more than seven nor less than three.

6. The group of technical experts shall meet during the first week of the next session and shall submit its report at the beginning of the second week of the session to the General Committee.

7. The Secretary-General would be authorized to make available the applications with the accompanying data and information for examination by the group of technical experts. The members of the group of technical experts will maintain the confidentiality of the data and information submitted to them.

8. In order to meet certain practical problems and, in particular, to take into account the interests of potential applicants under resolution II, paragraph 1 (a) (ii), the Preparatory Commission agrees that applicants who have

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practical problems voluntarily relinquish in advance portions of the application areas simultaneously with their registration as pioneer investors. The applicants so doing shall be deemed to have satisfied the provisions of resolution II, paragraph 1 (e).

9. Applicants who do not have practical problems and do not make voluntary relinquishments of areas shall be deemed to have fulfilled the requirements for relinquishment under resolution II, paragraph 1 (e), upon registration, provided that the total pioneer area allocated to them does not exceed 75,000 sq. km.

10. The Preparatory Commission shall allocate, according to the procedures specified in paragraph 3 of resolution II, to applicants who are not deemed to have fulfilled the requirements of paragraph 1 (e) of resolution II under paragraphs 8 and 9 above, an area necessary to ensure that each such applicant will have a pioneer area not exceeding 75,000 sq. km. after the relinquishment of areas in accordance with paragraph 1 (e) of resolution II.

11. The relinquished areas, referred to in paragraph 8, shall remain deposited with the Preparatory Commission and will be reserved to form part of the application areas of applicants qualified to apply as pioneer investors under resolution II, paragraph 1 (a) (ii), until the Convention enters into force.

12. The General Committee shall base its decisions relating to the designation of the areas to be reserved by the Authority and the allocation of pioneer areas covered by amended applications on the following:

(a) The area to be designated in respect of each application as an area to be reserved for the conduct of activities by the Authority through the Enterprise or in association with developing countries shall be at least one half of the total area applied for by each applicant and shall be of equal estimated commercial value to the respective areas allocated to each applicant. To that effect, applicants with overlapping claims shall, in accordance with subparagraph (c) below, propose portions of the areas covered by their respective amended applications that will constitute part of the area to be reserved for the Authority. These portions of the application areas shall be added to the part of the application areas that will remain after the relinquishments provided for in paragraph 8 above and the allocations referred to in subparagraph (b) have been effected to form the total area reserved for the Authority in respect of each application.

(b) The total area to be allocated to each applicant shall not exceed 75,000 sq. km. after any relinquishment of areas referred to in paragraphs 8, 9 and 10 have been made. For the purpose of allocation, each applicant shall indicate in its application a portion of its application area up to a limit of 52,300 sq. km. that shall form part of the total area to be allocated to it by the Commission. In addition to the areas indicated by the applicants, the Commission shall allocate, in accordance with paragraph 3 of resolution II, an area from the respective application areas necessary to complete the total area to be allocated to each applicant.

(c) In order to ensure that the Authority is provided with an area of equal estimated commercial value within the area in the North-East Pacific Ocean where

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most of the mining areas being claimed are concentrated, the three applicants with claims in that region, namely, France, Japan and the USSR, will contribute portions of their respective application areas in the central zone totalling 52,300 sq. km. for incorporation in the area to be reserved for the Authority in accordance with paragraph 12 (a) above. The areas so contributed may be incorporated in any mine site for which the Enterprise may wish to submit a plan of work.

The contribution to be made by the three applicants shall be as follows:

(i) France - an area totalling 20,000 sq. km. adjacent to its overlapping area with the Soviet Union;

(ii) Japan - an area totalling 17,300 sq. km. adjacent to the overlapping area between Japan and the Soviet Union;

(iii) Soviet Union - an area totalling 15,000 sq. km., 14,549 sq. km. of which will be from within its overlapping area with France and Japan and 451 sq. km. which it obtains from France following adjustment of claims between the two applicants.

(d) Notwithstanding the foregoing, the registration of the application submitted by India shall be made in conformity with resolution II subject, however, to the proviso that India, like other applicants, will identify in its application area an area totalling 52,300 sq. km. for incorporation in the area of up to 150,000 sq. km. to be allocated to it as a pioneer area. The provisions on relinquishment in resolution II, paragraph 1 (e), shall apply to the allocated area.

13. The treatment to be accorded to potential applicants in respect of their application shall be similar to the treatment given to the first group of applicants, provided that potential applicants assume similar obligations to those of the first group of applicants and submit their applications before the entry into force of the Convention on the Law of the Sea.

14. The procedures and mechanisms outlined above have been devised in order to overcome difficulties in the implementation of resolution II and to facilitate the registration of the applications by the first group of applicants, taking into account that most of the claims are concentrated in the North-East Pacific Ocean region. These procedures and mechanisms are not intended to create a precedent for the implementation of the régime for sea-bed mining under part XI of the Convention nor do they purport to alter or amend that régime in any way.

15. The procedure and mechanisms that have been outlined above:

(a) Provide the Preparatory Commission with sufficient time to prepare itself to consider and register the pending applications of the four applicants for mine sites under resolution II of the Convention on the Law of the Sea;

(b) Provide a timetable which ensures that all meetings of the group of experts and the General Committee will substantially take place during the next session in order not to incur expenditure which has not been budgeted for by the General Assembly;

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(c) Provide a timetable which gives ample opportunity for the four applicants to review the data and information relating to their original applications in the light of the procedures and mechanisms outlined above and to submit their amended applications;

(d) Provide a mechanism for voluntary relinquishment at the time of registration which represents an equitable approach to resolving any overlapping claims that might be anticipated between any of the applicants and any potential applicants. The intervening time between now and the submission of amended applications will provide an opportunity for those concerned to possibly give more precision to this approach. The Preparatory Commission would encourage such efforts and urge all concerned that this be done in an atmosphere of free and frank discussions, making available to each other the necessary data and information, including co-ordinates. Any results of such endeavours should be taken into account in the amended applications.

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New York, 11 August-5 September 1986

## STATEMENT MADE BY THE ACTING CHAIRMAN OF THE PREPARATORY COMMISSION

1. During the present session, the work of the plenary was divided into three parts:

(a) Organization of the work of the Commission;

(b) Preparation of the rules, regulations and procedures relating to the various organs of the Authority;

(c) Implementation of resolution II.

### Organization of work

2. On 12 August 1986, the plenary, on the recommendation of the General Committee, adopted a programme of work which enabled all the Special Commissions and the plenary on the Authority to meet. As had been agreed, priority was given to the implementation of resolution II, particularly to the consultations on the Arusha Understanding.

### Preparation of the rules, regulations and procedures relating to the various organs of the Authority

3. At the present session, the plenary held eight informal meetings on the Authority. At the first six meetings, the plenary continued the first reading of the draft rules of procedure for the Legal and Technical Commission contained in document LOS/PCN/WP.31, and subsequently started consideration of the draft rules of procedure for the Economic Planning Commission. This paper, prepared by the Secretariat, was circulated on 22 August 1986 as document LOS/PCN/WP.36.

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4. In considering the draft rules of procedure for the Legal and Technical Commission, the plenary had before it amendments submitted at the previous session in Kingston on 25 March 1986 by the delegations of Bulgaria, the Byelorussian Soviet Socialist Republic, Czechoslovakia, the German Democratic Republic, Hungary, Poland, the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics; and amendments submitted on 3 April 1986 by the delegations of Belgium, the Federal Republic of Germany, Italy, Japan, the Netherlands and the United Kingdom of Great Britain and Northern Ireland; and an amendment submitted on 4 April 1986 by the delegation of Uruguay. These amendments were circulated in documents LOS/PCN/WP.32, LOS/PCN/WP.34 and LOS/PCN/WP.35, respectively.

5. Since consideration of draft rules 17-21 was not completed in Kingston, the plenary started with the examination of those rules and at the first two meetings provisionally approved rules 18-21 without amendments. At the subsequent meetings, the plenary provisionally adopted without amendments rules 23, 24, 26, 27, 29-37, 39, 40, 42, 45-52 and 56-62 and rules 25, 28, 44 and 53 as orally amended. It should be mentioned that although as indicated above, rules 56 and 57 ("Languages of the Commission" and "Interpretation") were provisionally approved, one delegation reserved its final position on the issue of languages.

6. In the course of the debate, no agreement could be reached on rules 17, 22, 38, 41, 43, 54 and 55 and therefore their further consideration was postponed until a later stage. With respect to rule 22, "Duties of the Secretary-General", the aforementioned delegations, which submitted amendments to the draft rules, felt that it should be expanded and complemented by the provisions relating to the presentation by the Secretary-General of reports assessing the costs as well as the administrative and budgetary implications of proposals and recommendations considered by the Commission. It was, therefore, decided that the relevant proposals for new rules 23 bis and 41 bis, contained in documents LOS/PCN/WP.32 and LOS/PCN/WP.34 respectively, should be examined at the same time as rule 22 because of their close link to it.

7. No agreement was reached on the issue of decision-making on questions of substance, which is embodied in rule 41. However, a suggestion was made that it might be advisable in drafting this rule to follow the decision-making procedures specified in article 161 of the Convention for the different categories of questions. It was also decided to postpone discussion on rule 38 on reconsideration of proposals and return to it when the plenary once again addressed the issue of decision-making on questions of substance.

8. The plenary completed the first reading of the rules contained in document LOS/PCN/WP.31. However, it must be noted that there were certain proposals that were not considered by the plenary. The plenary did not examine proposals for the inclusion in the rules on the special procedures for the review of applications for approval of plans of work, the preliminary reservation of areas and recommendations to the Council contained in document LOS/PCN/WP.32. The plenary also did not have time also to address the issue raised by certain delegations as to whether the draft rules of procedure should explicitly cover some of the working methods to be exercised by the Legal and Technical Commission, in particular with respect to article 165, paragraphs 2 (c) and 3 of the Convention, concerning the functions of supervision and inspection, article 165, paragraph 2 (e), related to the use of outside experts and paragraph 2 (k) of the same article dealing with the issuing of emergency orders to prevent serious harm to the marine environment.

9. The plenary began consideration of the draft rules of procedure for the Economic Planning Commission. In examining these rules, the plenary had before it the draft prepared by the Secretariat (LOS/PCN/WP.36) and two sets of amendments submitted on 28 August 1986 by the delegations of Belgium, the Federal Republic of Germany, Italy, Japan, the Netherlands and the United Kingdom of Great Britain and Northern Ireland and on the same date by the delegations of Bulgaria, the Byelorussian SSR, Czechoslovakia, the German Democratic Republic, Hungary, Mongolia, Poland, the Ukrainian SSR and the USSR. These amendments were circulated in documents LOS/PCN/WP.37 and LOS/PCN/WP.38 respectively.

10. The plenary examined 20 of the 61 draft rules of the Economic Planning Commission and adopted without amendment rules 5, 9, 11-14 and 17-20. No agreement was reached on draft rules 1-4, 6-8, 10, 15 and 16. In considering rule 10 on incompatible activities and confidentiality and on an amendment thereto, contained in document LOS/PCN/WP.37, a suggestion was made, similar to one already expressed at the previous session, that the issue of confidentiality of data and information was a general one, in the sense that it concerned other Commissions, in particular Commission 3 and therefore should probably be tackled as a package within the Preparatory Commission.

11. At the next session of the Preparatory Commission, the plenary will continue with the first reading of the Economic Planning Commission. It will then commence the second reading of the revised draft rules of procedure of the Council contained in document LOS/PCN/WP.26/Rev.1. There were a number of rules left pending by the plenary while considering the draft rules of procedure of the Assembly, the Council and the Legal and Technical Commission. It will be recalled that at the third session of the Preparatory Commission the Chairman had held intensive consultations on some of these issues that particularly concerned the draft rules of procedure of the Assembly (LOS/PCN/L.19). At the appropriate stage the plenary will be obliged to devise a mechanism for dealing with these issues.

## Implementation of resolution II

12. At the second session of the Preparatory Commission, held at Kingston from 19 March to 13 April 1984, the Chairman was requested to use his good offices to assist the parties that had overlapping claims to reach an agreement on resolving the overlaps.

13. It was on the basis of this request that the Chairman decided to undertake consultations with the parties concerned in order to find a solution to the problem of conflicts arising from the overlap of claims with regard to pioneer investors.

14. At the summer meeting held at Geneva from 13 August to 5 September 1984, an understanding was reached among the parties concerned.

15. That understanding was in two parts. The first part represented an understanding on the resolution of conflicts among applicants for registration as pioneer investors and the second part was an understanding on the procedure for conflict resolution among the first groups of applicants. This understanding is found in the Chairman's statement to the plenary contained in document LOS/PCN/L.8.

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16. The understanding on resolution of conflicts among applicants for registration of pioneer investors stated, inter alia, that:

(a) The first group of applicants would include all those who have submitted applications to the Preparatory Commission by 9 December 1984;

(b) Immediately after 9 December 1984, all applicants would meet to exchange co-ordinates of areas claimed in their applications, in order to ascertain whether there were any overlaps;

(c) In case of overlaps, it was agreed that the applicants concerned would proceed to resolve the conflicts among themselves;

(d) The registration of the first group of applicants would not prejudice the right of other potential pioneer investors to submit applications for registration with the Preparatory Commission, taking into account the areas already allocated or designated as reserved areas.

17. According to that part of the understanding that concerned the procedure for conflict resolution among the first group of applicants, all applicants agreed to meet on 17 December 1984 to exchange lists of co-ordinates of the areas claimed in their respective applications in order to ascertain if there were any overlaps between the areas claimed in the applications submitted to the Preparatory Commission for registration as pioneer investors. If an overlap of claims was found between two or more applicants the conflict should be resolved through negotiations.

18. In accordance with the understanding, the four applications received by 9 December 1984 from France, India, Japan and the Soviet Union were taken to Geneva by Mr. Satya N. Nandan, the Special Representative of the Secretary-General, where the first group of applicants met on 17 December 1984 in order to exchange their co-ordinates in the presence of the Special Representative. It was discovered that overlaps did exist between the application areas of Japan and the Soviet Union and between those of France and the Soviet Union. In the case of India, there was no overlap in the area identified as its application area. Those having overlaps, in accordance with the procedures described in the understanding of 31 August 1984, agreed to undertake further consultations beginning on 11 January 1985 with a view to resolving the respective overlaps within the time prescribed in the understanding of 1984.

19. Accordingly, the three countries concerned began their meetings on 1 January 1985 in Paris and subsequently met in Tokyo and Moscow in order to resolve the conflicts arising out of the overlapping of the application areas that were between France and the USSR, on the one hand, and between Japan and the USSR, on the other.

20. The conflict concerning the overlapping between the Japanese and Soviet application areas were provisionally resolved during the negotiations. However, the overlap between France and the Soviet Union created practical problems for the two countries in that it was difficult to find a solution that would meet with all the conditions set out in resolution II, paragraph 3.

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21. During the third session at Kingston (11 March-4 April 1985) the Chairman had a number of meetings with the four applicants, individually and collectively. Considerable progress was made towards finding a solution. However, while France and the Soviet Union were able to resolve the conflicts between their respective claims, a practical problem remained with respect to the fulfilment of the requirements of resolution II, paragraph 3. In his report, the Chairman paid tribute to the sincerity and goodwill demonstrated by all the applicants.

22. Following the session at Kingston, inter-sessional consultations took place between France and the Soviet Union in particular. At their request, a meeting took place at Geneva under the Chairman's good offices. These meetings were designed to encourage those countries to find a solution that could assist them in making a proposal to the Commission.

23. Consultations continued during the summer meeting held at Geneva (13 August-4 September 1985). The Chairman devoted much time to this task with the help of the Special Representative in encouraging all concerned to find a practical solution to the issues. In addition, the scope of his consultation with delegations was widened. It was, however, not possible at that stage to submit any proposal for the consideration of the Commission.

24. An understanding was reached that intensive efforts would be made during the inter-sessional period to solve the remaining issues and a time-table and procedure was agreed upon for further consultations.

25. The Chairman made every effort to assist the four applicants to submit a proposal that would take account of the practical problems that they had encountered and that would be generally acceptable to the Commission. To that end, three issues were identified by the Chairman that must be addressed if progress were to be made: (a) the interests of the applicants should be adequately reflected; (b) there should be an accommodation of the interests of the Authority within the central zone in the north-east Pacific Ocean; and (c) the interests of the potential applicants should also be taken into account. The Chairman appealed to the four pioneer investors to find a solution, taking into account the aforesaid three elements. Although in the case of India there was no overlap in its application area, India agreed to participate in all the negotiations with a view to facilitating the process of early registration of the first group of applicants and the implementation of resolution II.

26. This led to intensive meetings among the four applicants at Geneva, Tokyo and, finally, at Arusha in February 1986. At the Arusha meeting, with the Chairman and the Special Representative, the four applicants presented a set of proposals, which is incorporated in what has now come to be known as the "Arusha Understanding".

27. At the fourth session of the Commission held at Kingston (17 March-11 April 1986) I was requested by Chairman Joseph Warioba to deputize as Acting Chairman for him. This was a consequence of his having assumed the new responsibility of Prime Minister of the United Republic of Tanzania. At this session, I undertook intensive consultations on the Arusha Understanding. These were held with different interest groups and individual delegations. During that session, many clarifications were provided by me with the assistance of the Special

Representative and that of Ambassador Kateka of the United Republic of Tanzania. The first group of applicants had also assisted in that process by responding to questions that were put to them, sometimes in writing and sometimes through me.

28. In my report to the plenary (LOS/PCN/L.34/Rev.1), I noted that in the course of those consultations I was able to ascertain that most delegations believed that the Arusha Understanding was a good basis for resolving conflicts, and for accommodating the interests of the Authority and those of the first group of applicants. I also noted, however, that while considerable progress had been made, further consultations were necessary. In particular, certain delegations had informed me that they required more time to consider the Arusha Understanding to enable them to take a more definite position.

29. During the inter-sessional period, the Chairman received a number of communications from different interest groups on the Arusha Understanding and while it was not possible to have inter-sessional consultations, consultations were nevertheless begun during the week preceding this session by the Special Representative on the Chairman's behalf.

30. During the pre-sessional consultations, which have taken place with various interested groups, certain ideas emerged. It was recognized that there should be a time-frame and procedure in order to complete registration. The key element of the package was to build upon the agreement reflected in the Arusha Understanding. To that end, a mechanism was devised to allow for the submission of revised applications to a group of technical experts which would examine these applications and report to the General Committee. Finally, a date will be fixed for the General Committee to consider the applications and register them.

31. During the first week of the present session, I continued the consultations and I am pleased to record that considerable progress was made towards achieving some understanding on the elements. On the Chairman's arrival in New York I briefed him on the consultations I had conducted both during the Kingston session and during the first week in New York.

32. During the second week of the present session, consultations were conducted by Chairman Joseph S. Warioba. As he has reported, he met with all the interested groups - the group of first applicants; the potential applicants; the Group of 10 representing the Group of 77; and the Group that is popularly known as the Friends of the Convention.

33. As stated in his report, (LOS/PCN/L.36) an informal paper based on the ideas developed during the consultations held before the session and in the first and second week of the session was circulated by the secretariat. He had noted that all the groups had very positive comments about the informal paper and found a large part of it acceptable. However there were certain issues that, because of a lack of time, could not be resolved before his departure.

34. The Chairman had requested me to continue with the consultations as Acting Chairman. During the last two weeks of the present session, I held a series of consultations with all interested groups and with delegations with the help of the Special Representative.

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35. During these consultations, which were arduous and prolonged and continued right up until today, all issues relating to a package of understanding were intensively negotiated between the different interest groups under my guidance. Negotiations also took place directly among some interest groups, the results of which were presented to me. As a consequence of all these efforts it was possible for me to forge together a final package of understanding contained in the annex to this statement entitled "Statement on the implementation of resolution II".

36. As will be seen from the text of the understanding, it takes into account the interests of all groups of States and that of the Preparatory Commission as a whole. Quite clearly, the understanding is the result of compromises and reflects the common denominator among all groups of States in the Preparatory Commission. It is a major step forward in one critical area of the work of the Preparatory Commission, i.e., the implementation of the régime for pioneer investors under resolution II of the Third United Nations Conference on the Law of the Sea.

37. The procedures and mechanisms established in this understanding should lead us to the registration of the first group of applicants after a delay of almost two years. It will also give practical effect to the new régime for deep sea-bed mining under the Convention since the rights and interest acquired as pioneer investors would be recognized under part XI of the United Nations Convention on the Law of the Sea on its entry into force. The consideration given to the interests of the potential pioneer investors as reflected in this understanding underscores the fact that the Preparatory Commission has acted equitably to safeguard the interests of all.

38. Quite clearly the Preparatory Commission is of the view that there can only be one régime for deep sea-bed mining and that is the régime contained in the Convention. It is the hope and expectation of all of us here that everyone will eventually work within that régime for the sake of peace and good order in the oceans and the security of the rights of all those who are interested in deep sea-bed mining.

39. Distinguished delegates, the understanding we have negotiated during this session and which is contained in the annex to this statement will guide the future course of action in the implementation of resolution II. I urge you all to make every effort to ensure that the goals embodied in this understanding are achieved.

40. In accordance with the understanding we have reached, the following steps will take place during the inter-sessional period:

(a) In accordance with paragraph 6, the Secretary-General will invite the members of the Preparatory Commission to nominate a list of candidates for the group of qualified technical experts. The nomination should indicate the qualifications of the candidates and the specific field of competence. The compilation of this list will be followed by the selection and appointment of the group of technical experts in accordance with the understanding;

(b) The second step will be the submission of revised applications by the first group of applicants by 25 March 1987.

Other procedures will follow as prescribed in the understanding.

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41. It would be remiss of me if I were not to take this opportunity to express my sincere gratitude to each and every one of you for the courtesies and co-operation that you have granted to me as your Acting Chairman. Without the co-operation you have given me either directly or through respective interest groups, we would not have reached the agreement that we have reached today. I would also like to thank all the members of the Secretariat for the assistance and services that they have provided not only to me personally but to the Preparatory Commission and its Special Commissions as a whole. I would like to pay a special tribute to the Special Representative of the Secretary-General for his own untiring efforts in assisting the Commission in its efforts to reach an agreement. Those of us who have worked closely with him know of his sense of integrity and of his special ability in bridging the differences between the different viewpoints. I would like to thank the Executive Secretary, the Secretaries of the Commissions and the Plenary, the interpreters, and all the other supporting staff, without whose support I would not have been able to complete our work.

## Fifth session of the Preparatory Commission

42. The Preparatory Commission will hold its fifth session at Kingston from 30 March to 24 April 1987. The Group of 77 will meet, also at Kingston on Monday, 30 March, and on the morning of Tuesday, 31 March 1987. The Commission will decide the venue of its summer meeting at that session.

## Annex

## STATEMENT ON THE IMPLEMENTATION OF RESOLUTION II

The Commission shall proceed in this matter on the basis of the following understanding:

1. The Preparatory Commission takes note of the information from the first group of applicants that, on the basis of this understanding, France and the Union of Soviet Socialist Republics and Japan and the Soviet Union can resolve the overlaps of the areas in respect of which they have applied for registration as pioneer investors. They have also informed the Commission that the results of their agreements would be reflected in the revised application to be submitted by each of them.

2. France, India, Japan and the USSR will submit to the Secretary-General by 25 March 1987 revised applications in accordance with resolution II and subject to the guidelines set forth in this understanding.

3. The General Committee will meet at the beginning of the second week of the next session of the Preparatory Commission to consider the applications and decide on their registration. Before the General Committee meets, the Chairman will receive reports from all concerned on the progress made on any outstanding issues that may be the subject of inter-sessional discussions and report to the Preparatory Commission on any developments. If the Preparatory Commission is satisfied that substantial progress has been made during the inter-sessional discussions, but that due to lack of time it was not possible to complete the discussions, the Preparatory Commission may decide, at its next session, to prolong the period for discussions, as necessary.

4. The General Committee shall consider the applications taking into account the reports of the group of technical experts. The group of technical experts shall determine whether the applications are in conformity with resolution II, in particular with the principle of equal estimated commercial value, subject to the guidelines and procedures set forth in this understanding and submit a report on each application to the General Committee. In case of there being different opinions, such opinions should be included in the report.

5. The General Committee shall postpone the registration of an application where the total area including the areas referred to in paragraph 13 (1) (c) and (d) below, to be reserved for the conduct of activities by the Authority through the Enterprise or in association with developing countries, is not of equal estimated commercial value until the necessary adjustments are made to achieve this equivalence.

6. The group of technical experts shall be appointed by the Chairman of the Preparatory Commission in consultation with the regional groups and the composition of the group as a whole shall reflect the principle of equitable geographical distribution. The members of the group will be selected from a list compiled by the Secretary-General of qualified candidates proposed by the members of the

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Preparatory Commission. Each member of the Preparatory Commission may propose no more than three candidates not later than 31 October 1986. The membership of the group of technical experts shall include four members representing the first 4 applicants and shall not be more than 15. The expenses of the technical experts shall be borne by the States nominating such experts.

7. The group of technical experts shall meet during the first week of the next session and shall submit its report at the beginning of the second week of the session to the General Committee. Each applicant has the right to appear before the group of experts when its application is being considered. Other applicants of the first group who have an interest in the application being considered may give notice to appear before the group of experts when that application is being considered.

8. The Secretary-General would be authorized to make available the applications with the accompanying data and information for examination by the group of technical experts. The members of the group of technical experts will maintain the confidentiality of the data and information submitted to them, even after the conclusion of their functions.

9. In order to meet certain practical problems and, in particular, to take into account the interests of potential applicants under resolution II, paragraph 1 (a) (ii), an applicant who has practical problems may voluntarily relinquish in advance portions of the application areas simultaneously with its registration as a pioneer investor. The areas relinquished in these circumstances may exceed 75,000 sq kms and shall be without prejudice to paragraph 13 below. The applicants so relinquishing shall be deemed to have complied with the provisions of resolution II, paragraph 1 (e).

10. Applicants who do not have practical problems and do not make voluntary advance relinquishments of areas shall be deemed to have complied with the requirements for relinquishment under resolution II, paragraph 1 (e) upon registration, provided that the total pioneer area allocated to them does not exceed 75,000 sq km.

11. The Preparatory Commission shall allocate according to the procedures specified in resolution II, paragraph 3, to applicants who are not deemed to have complied with the requirements of resolution II, paragraph 1 (e), under paragraphs 9 and 10 above, an area necessary to ensure that each such applicant shall have a pioneer area not exceeding 75,000 sq km after the relinquishment of areas in accordance with resolution II, paragraph 1 (e).

12. The relinquished areas, referred to in paragraph 9, shall remain deposited with the Preparatory Commission and will be reserved to form part of the application areas of potential applicants qualified to apply as pioneer investors under resolution II, paragraph 1 (a) (ii), until the Convention enters into force.

13. The General Committee shall make its decisions relating to the designation of the areas to be reserved for the Authority and the allocation of pioneer areas covered by revised applications of the first group of applicants in accordance with the following:

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1.(a) The area to be designated in respect of each application as an area to be reserved for the conduct of activities by the Authority through the Enterprise or in association with developing countries shall be not less than one half of the total area applied for by each applicant. In the case where an applicant has relinquished over 75,000 sq km under paragraph 9 above, the area to be reserved for the Authority may be reduced, but in any case it shall not be less than 75,000 sq km.

(b) The areas to be reserved for the Authority in respect of each application shall be of equal estimated commercial value to the respective areas allocated to each applicant.

(c) Applicants with overlapping claims, namely France, Japan and the USSR, shall contribute portions of areas in the north-east Pacific Ocean covered by their respective revised applications that will constitute part of the area to be reserved for the Authority. The areas so contributed may be incorporated in any area for which the Enterprise may wish to submit a plan of work and together they shall be of equal estimated commercial value to at least the average estimated commercial value of the three areas of up to 52,300 sq km to be allocated to the pioneer investors pursuant to paragraph 13 (2).

(d) The contribution to be made by the three applicants for this purpose shall be as follows:

(i) France - an area totalling 20,000 sq km adjacent to its presently overlapping area with the Soviet Union;

(ii) Japan - an area totalling 17,300 sq km adjacent to its presently overlapping area with the Soviet Union;

(iii) Soviet Union - an area totalling 15,000 sq km, 14,549 sq km of which will be from within its presently overlapping areas with France and with Japan and 451 sq km which it obtains from France following adjustment of claims between the two applicants.

2. The total area to be allocated to each applicant shall not exceed 75,000 sq km after any relinquishment of areas referred to in paragraphs 9, 10 and 11 has been made. For the purpose of allocation, each applicant may indicate in its application portions of its application area up to a limit of 52,300 sq km that shall form part of the total area to be allocated to it by the Commission. In addition to the areas indicated by the applicants, the Commission shall allocate, in accordance with resolution II, paragraph 3, an area from their respective application areas necessary to complete the total area to be allocated to each applicant.

3. Notwithstanding the foregoing the registration of India as a pioneer investor shall be made in conformity with resolution II. However, India, like other applicants, if it so wishes, will identify in its application area an area totalling 52,300 sq km for incorporation in the area of up to 150,000 sq km to be allocated to it as a pioneer area. The provisions on relinquishment in resolution II, paragraph 1 (e), shall apply to the allocated area.

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14. Notwithstanding the provisions of paragraph 12 (a) (i) of resolution II, the first group of applicants will assist the Preparatory Commission and the Authority in the exploration of a mine site for the first operation of the Enterprise and in preparing a plan of work in respect of such a mine site. The conditions and extent of this assistance will be discussed and agreed to following registration, applying *mutatis mutandis* the provisions of paragraph 7 (c) of resolution II.

15. The treatment to be accorded to potential applicants in respect of their applications shall be similar to the treatment given to the first group of applicants provided that potential applicants assume similar obligations to those of the first group of applicants and submit their applications before the entry into force of the United Nations Convention on the Law of the Sea.

16. The procedures and mechanisms outlined in this understanding have been devised in order to overcome practical difficulties in the implementation of resolution II and to facilitate the registration of the first group of applicants as soon as possible.

17. The procedures, mechanisms and provisions of this understanding are essentially designed for the registration of the first group of applicants as pioneer investors under resolution II and constitute an integrated package to be implemented as a whole. They shall be respected by all concerned.

18. These procedures and mechanisms shall not be construed as setting a precedent for the implementation of the régime for sea-bed mining under the Convention, nor do they purport to alter or amend that régime in any way.

19. The procedures and mechanisms that have been outlined above:

(a) Provide the Preparatory Commission with sufficient time to prepare itself to consider and register the pending applications of the first group of applicants as pioneer investors which have submitted applications under resolution II of the Conference on the Law of the Sea;

(b) Provide a time-table which ensures that all meetings of the group of experts and the General Committee will substantially take place during the next session in order not to incur expenditure which has not been budgeted for by the General Assembly;

(c) Provide a time-table which gives ample opportunity for the four applicants to review the data and information relating to their original applications in the light of the procedures and mechanisms outlined above and to submit their revised applications;

(d) Provide a mechanism for voluntary relinquishment at the time of registration which represents an equitable approach to resolving any practical problems that might be anticipated between any of the first group of applicants and any potential applicants. The time intervening between now and the submission of revised applications will provide an opportunity for those concerned to possibly give more precision to the approach. The Preparatory Commission would encourage such efforts and urge all concerned that this be done in an atmosphere of free and

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frank discussions, making available to each other at these discussions the necessary data and information. Any results of such endeavours should be taken into account in the revised applications and respected by all concerned;

(e) Provide for similar treatment to be given to potential applicants as that given to the first group of applicants, provided that potential applicants assume similar obligations to those of the first group of applicants, if the former submit their applications before the entry into force of the United Nations Convention on the Law of the Sea.

20. Any developing State that has signed the Convention or any State enterprise or natural or juridical person that possesses the nationality of such State or is effectively controlled by it or its nationals, or any group of the foregoing, shall have the right to apply as pioneer investor under resolution II, until the Convention enters into force.

21. A group of all or several socialist States of Eastern Europe, a/ or a group of State enterprises of such States, shall have the right to apply as pioneer investors in accordance with resolution II for one pioneer area until the United Nations Convention on the Law of the Sea enters into force.

22. The provisions of paragraphs 20 and 21 are without prejudice to the rights acquired upon registration by the first group of applicants as pioneer investors and to the interests of the potential applicants in conformity with this understanding.

## Notes

a/ Bulgaria, Byelorussian SSR, Czechoslovakia, German Democratic Republic, Hungary, Poland, Ukrainian SSR and the USSR.

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REPARATORY COMMISSION FOR THE
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ingston, Jamaica
0 March-16 April 1987

## REPORT SUBMITTED BY THE CHAIRMAN OF THE PREPARATORY COMMISSION AT THE 33rd PLENARY MEETING, HELD ON 30 MARCH 1987

I very much regret that it has not been possible for me to be with you at this opening meeting of the Fifth Session of the Preparatory Commission. However, I shall be in Kingston by the end of this week and I look forward to meeting and working with all of you and to your usual co-operation.

In the mean time, I have requested Mr. Michael Landale from the delegation of Australia, a Vice-Chairman, to deputize for me and I am very grateful to him and to the Australian delegation for agreeing to do so.

At the last meeting in August 1986 in New York, the Commission had made considerable progress in all areas of its work. However, a substantial amount of work still needs to be done in the Special Commissions and the Plenary and I am certain that during this session we will make further progress towards discharging the mandate of the Preparatory Commission.

In addition to the preparatory work for the establishment of the International Sea-Bed Authority and the International Tribunal for the Law of the Sea, the Commission has the responsibility to administer the régime for pioneer investors as embodied in resolution II of the Conference. As you are aware, since 1984 we have h applications pending for registration as pioneer investors. Over the past three years, we have been working towards resolving some of the practical problems that hav arisen with respect to some of these applications. At the New York meeting last summer we took a major step forward towards the registration of applications of the first group of applicants by adopting an Understanding which is contained in the Annex to document LOS/PCN/L.41/Rev.1. That document, inter alia, sets out the procedures, guidelines and time-table for submission of revised applications and their registration and required the Chairman to set up a group of technical experts in consultation with Regional Groups. The group of technical experts is to review the applications in accordance with paragraph 4 of the Understanding. As you are already aware, I have proceeded to establish the group of technical experts on the

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basis of a list of names compiled by the Secretariat from nominations made by members of the Preparatory Commission by 31 October 1986. The names of the 15 members of the group of technical experts have already been communicated to you by the Secretariat.

It had been anticipated that at this session we would consider the revised applications of the first group of applicants, namely those of France, India, Japan and the USSR. As you will see from the communications received from the first four applicants (documents LOS/PCN/81 and LOS/PCN/82) as well as from the potential applicants, namely Belgium, Canada, Italy and the Netherlands (document LOS/PCN/83) several intersessional consultations have taken place on certain specific matters relating to the implementation of resolution II.

Such consultations were anticipated in the Understanding which in paragraph 19 (d) states: "The time intervening between now and the submission of revised applications will provide an opportunity for those concerned to possibly give more precision to the approach. The Preparatory Commission would encourage such efforts and urge all concerned that this be done in an atmosphere of free and frank discussions, making available to each other at these discussions the necessary data and information. Any results of such endeavours should be taken into account in the revised applications and respected by all concerned;".

The Understanding further provided in its paragraph 3 that "Before the General Committee meets, the Chairman will receive reports from all concerned on t progress made on any outstanding issues that may be the subject of interessional discussions and report to the Preparatory Commission on any developments. If the Preparatory Commission is satisfied that substantial progress has been made during the intersessional discussions, but that due to lack of time it was not possible to complete the discussions, the Preparatory Commission may decide, at its next session, to prolong the period for discussions, as necessary."

From the information provided to me I believe that considerable progress has been made at these consultations. However, I have been informed that more time is required to bring these consultations to a successful conclusion.

In their letter of 19 March the first group of applicants have requested tha the deadline for the submission of the revised applications be extended to one week prior to the summer meeting of the Preparatory Commission and that consideration of the applications for registration be taken up at the summer meeting. Consequently, they have requested the postponement of the meeting of the group of technical experts. Accordingly, no revised application has been received. I have therefore taken steps to notify the members of the group of technical experts of this request since many of them are not regular members of their country's delegation. As has been noted before, the Preparatory Commission had foreseen the possibility of extending the time for submission of the revised applications and their consideration when it adopted the Understanding at the last summer meeting of the Preparatory Commission.

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I suggest that the Preparatory Commission should, at an appropriate time during this session, consider this matter. The date when it will be taken up in the Plenary will be announced in advance.

The tentative work programme for the fifth session was circulated to all delegations together with the invitation.

I have requested the Acting Chairman to consult with the Chairmen of the Special Commissions and of the Regional Groups on this proposed programme in order that the General Committee can consider it and make its recommendations to the Plenary. I hope that the Commission will adopt its work programme in the usual manner and proceed with its work as soon as possible.

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## STATEMENT OF UNDERSTANDING ON THE IMPLEMENTATION OF RESOLUTION II MADE BY THE CHAIRMAN OF THE PREPARATORY COMMISSION AT THE 34TH PLENARY MEETING, HELD ON 10 APRIL 1987

1. The statement on the implementation of resolution II contained in document LOS/PCN/L.41/Rev.1 was adopted on 5 September 1986 in order to overcome practical difficulties in the implementation of resolution II and to facilitate the registration of the first group of applicants as soon as possible.

2. Paragraphs 2 and 3 of the aforesaid statement read as follows:

> "2. France, India, Japan and the USSR will submit to the Secretary-General by 25 March 1987 revised applications in accordance with resolution II and subject to the guidelines set forth in this understanding.
>
> 3. The General Committee will meet at the beginning of the second week of the next session of the Preparatory Commission to consider the applications and decide on their registration. Before the General Committee meets, the Chairman will receive reports from all concerned on the progress made on any outstanding issue that may be the subject of inter-sessional discussions and report to the Preparatory Commission on any developments. If the Preparatory Commission is satisfied that substantial progress has been made during the inter-sessional discussions, but that due to lack of time it was not possible to complete the discussions, the Preparatory Commission may decide, at its next session, to prolong the period for discussions, as necessary."

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3. In their letter dated 19 March 1987 (LOS/PCN/82), the delegations of France, India, Japan and the Soviet Union noted that "progress has been made in intersessional consultations among interested parties to resolve outstanding issues. These consultations have not yet been completed. Accordingly, even though France, India, Japan and the Soviet Union are ready to adhere to the timetable set out in the Statement on the implementation of resolution II for submitting the revised application for registration as pioneer investors, with a view to facilitating the implementation of the package of understandings contained in the Statement on the implementation of resolution II, the delegations of France, India, Japan and the Soviet Union consider it appropriate that the Preparatory Commission, pursuant to paragraph 3 of the Statement on the implementation of resolution II, extend the time for discussions aimed at settling the outstanding issues, so that revised applications could be submitted not later than a week before the start of the summer meeting of the Preparatory Commission".

4. The delegations of Belgium, Canada, Italy and the Netherlands in their letter dated 20 March 1987 (LOS/PCN/83) confirmed that "meetings were held between themselves and the representatives of the Soviet Union during the intersessional period with a view to settling practical problems in connection with deep sea-bed mining areas which these countries have applied for or may apply for in the future to the Preparatory Commission". They further stated that: "three rounds of consultations were held during the intersessional period and progress was made toward the resolution of outstanding issues. Due to the lack of time, it has not been possible to complete these discussions despite the efforts made to that effect. It will, therefore, be necessary for the Governments concerned to hold additional discussions".

5. Pursuant to paragraph 3 of the Understanding, the Chairman was also required "to report to the Preparatory Commission on any developments" during the intersessional period. Accordingly, the Chairman's report on these developments was presented to the Preparatory Commission at its opening meeting and is contained in document LOS/PCN/L.4

6. Following these communications, the members of the Preparatory Commission have undertaken informal consultations in order to obtain further information on the intersessional meetings that have taken place and to determine whether substantial progress has been made and whether the period for discussions aimed at settling the outstanding issues should be prolonged.

7. From the information provided to the Preparatory Commission by the first group of applicants and the potential applicants, the Commission, while expressing its great concern as to the lack of presentation of the revised applications of France, India, Japan and the USSR, by the 25th of March 1987, acknowledges that substantial progress has been made and that further time is necessary to complete the discussions which have begun during the intersessional period.

8. Accordingly, the Preparatory Commission decides to extend the time for the submission of revised applications by the first group of applicants. These applications shall be submitted not later than one week prior to the commencement of the summer meeting scheduled to begin on 27 July 1987.

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9. An applicant may, upon giving prior notice to the Chairman of the Preparatory Commission, make adjustments to its application in order to facilitate registration any time before the application is examined by the Group of Technical Experts.

10. Unless the Preparatory Commission at the beginning of its next meeting, taking into account the outcome of intersessional consultations on outstanding practical problems, decides otherwise the Group of Technical Experts, established in accordance with the Understanding of 5 September 1986, shall convene at the beginning of the second week of the summer meeting in order to examine the applications submitted for registration and to submit its report to the General Committee.

11. Unless the Preparatory Commission decides otherwise, the General Committee will be convened at the next meeting of the Preparatory Commission to consider the applications and decide on their registration.

12. Notwithstanding the preceding two paragraphs, the Group of Technical Experts and the General Committee shall meet to consider the registration of the application of India separately. The applications of the other three of the first group of applicants will be considered and registered simultaneously. These procedures will not affect the priority and equal treatment of all the applicants of the first group and are without prejudice to the interests of the potential applicants under resolution II and the Understanding adopted by the Preparatory Commission on 5 September 1986.

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New York, 27 July-21 August 1987

# STATEMENT MADE BY THE ACTING CHAIRMAN OF THE PREPARATORY COMMISSION AT THE 37th PLENARY MEETING, HELD ON 6 AUGUST 1987*

1. During the past 10 days, I have been consulting extensively on two matters of priority to which the Preparatory Commission attaches great importance: the registration of the four applicants for pioneer status under resolution II; and the election of a new Chairman to succeed Mr. Joseph S. Warioba.

## I. REGISTRATION UNDER RESOLUTION II

2. On the first issue, regarding the registration of pioneer investors, I would like to inform the Preparatory Commission that, in accordance with the statement of understanding of 10 April 1987 (LOS/PCN/L.43/Rev.1), which was based on the earlier understanding reached on 5 September 1986 (LOS/PCN/L.41/Rev.1), the revised applications by the four applicants, namely France, India, Japan and the Soviet Union, were submitted to the Secretary-General on 20 July 1987.

3. It should be recalled, that, in accordance with the understanding of 10 April 1987, unless the Preparatory Commission decided otherwise, the Group of Technical Experts had to be convened at the beginning of the second week of the present meeting of the Commission in order to examine and report on the applications submitted for registration.

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* Distributed in accordance with the decision taken by the Preparatory Commission at its 37th plenary meeting.

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4. Accordingly, the Group of Technical Experts has been convened and has begun its meeting as of Monday, 3 August 1987. However, in the light of the recent developments, the Group of Technical Experts is unable at this time to examine all the revised applications submitted by the four applicants. As you are aware, negotiations aimed at resolving all pending practical problems have been in progress since the last session of the Preparatory Commission and have just recently been successfully concluded. I am gratified to inform the Preparatory Commission that the first applicants and the potential applicants have reported that a comprehensive settlement of practical problems has been achieved (see documents LOS/PCN/90 and LOS/PCN/91). This very positive outcome ensures that all applications submitted will now be considered by the Group of Technical Experts and the General Committee with a view to their registration. However, because of the short lapse of time since the negotiations were concluded and the need for adjustment of at least one of these applications in order to conform to the terms of the agreement, the date of consideration of the applications of France, Japan and the Soviet Union will have to be deferred. It should be noted that it was already agreed that these applications will be considered for registration together.

5. You will further recall that, in accordance with the understanding of 10 April 1987, the Preparatory Commission also decided that in any event the Group of Technical Experts and the General Committee shall consider the application of India during the current meeting. Thus the Group of Technical Experts has commenced the examination of this application.

6. The applications of France, Japan and the Soviet Union will be considered for registration as soon as the necessary technical adjustments have been made. These adjustments should be completed and the applications should be submitted to the Secretary-General not later than 15 November 1987.

7. Accordingly, arrangements are being made to convene a second meeting of the Group of Technical Experts beginning on 23 November 1987. The General Committee will be convened from 7 December 1987, with a view to completing registration not later than 30 December 1987.

8. In the light of the above information, I take it that the Preparatory Commission agrees to the deferment of consideration of the applications of France, Japan and the Soviet Union in accordance with the above-mentioned dates. The Commission also takes note that the application of India is currently being examined by the Group of Technical Experts, which will submit its report to the General Committee with a view to the registration of that application later during the current meeting.

## II. ELECTION OF CHAIRMAN

9. Taking into account the United Nations practice, the Preparatory Commission, without prejudice to its rules of procedure, reaffirms the traditional practice of nomination of candidates to specific posts in the bureau of the plenary and in the special commissions. This practice has been followed both in the Third United Nations Conference on the Law of the Sea and in the Preparatory Commission, and is

based on the sovereign equality of States and the equal status of regional groups. According to this practice, before a candidate of a regional group for any important office of the Preparatory Commission is officially presented, there should be extensive consultations on the candidate among all the regional groups, and the views of all the regional groups should be taken into account, thus allowing for the possibility of reaching a decision by consensus. This practice was outlined in the relevant paragraphs of the statement by the Acting Chairman on 8 April 1983 (LOS/PCN/3).

10. On this basis, I would like to state that the Commission is ready to elect as Chairman the nominee of the African Group, Mr. José Luis Jesus from the delegation of Cape Verde.

11. Accordingly, I take it that the Commission elects Mr. Jesus as its Chairman, by acclamation.

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New York, 27 July-21 August 1987

# STATEMENT BY THE CHAIRMAN OF THE PREPARATORY COMMISSION

1. During the present session, the plenary dealt with five main matters:

(a) Organization of the work of the Commission;

(b) Election of the Chairman;

(c) Commemoration of the twentieth anniversary of Malta's initiative;

(d) Preparation of the rules, regulations and procedures relating to the various organs of the Authority;

(e) Implementation of resolution II.

## A. Organization of the work of the Commission

2. On 27 July 1987, the plenary, on the recommendation of the General Committee, adopted a programme of work for the current meeting of the Commission. As had been agreed, the programme of meetings for the second week was adjusted to accommodate the meeting of the Group of Experts, which had been convened to examine the application of India for registration as a pioneer investor under resolution II. The programme of meetings during the third week was also adjusted to accommodate the meetings of the General Committee, which had met to consider the application of India for registration as a pioneer investor under resolution II of the Third United Nations Conference on the Law of the Sea.

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## B. Election of the Chairman

3. At the 37th meeting, held on 6 August 1987, the plenary elected by acclamation the nominee of the African Group, Mr. José Luis de Jesus of the delegation of Cape Verde as Chairman of the Preparatory Commission (LOS/PCN/L.49) to succeed Mr. Joseph Warioba, Prime Minister of Tanzania.

## C. Commemoration of the twentieth anniversary of Malta's initiative

4. At its 38th meeting the plenary commemorated the twentieth anniversary of the initiative of Malta in submitting for inclusion on the agenda of the twenty-second session of the General Assembly an item relating to the reservation exclusively for peaceful purposes of the sea-bed beyond national jurisdiction, and the use of its resources in the interest of mankind.

## D. Preparation of the rules, regulations and procedures relating to the various organs of the Authority

5. The plenary held nine meetings on the Authority.

6. The plenary continued the examination of the revised draft rules of procedure of the Council and completed the second reading of these rules. The plenary had before it proposals to the draft rules of the Council previously tabled by the delegations of Belgium, Germany, Federal Republic of, Italy, Japan, the Netherlands and the United Kingdom of Great Britain and Northern Ireland (LOS/PCN/WP.28) and by the delegations of Bulgaria, the Byelorussian SSR, Czechoslovakia, the German Democratic Republic, Hungary, Poland, the Ukrainian SSR and the Union of Soviet Socialist Republics (LOS/PCN/WP.29 and Corr.1).

7. The plenary also considered the proposals contained in documents LOS/PCN/WP.32 and LOS/PCN/WP.33. The proposals in the first of these documents were presented by the delegations of the Byelorussian SSR, Czechoslovakia, the German Democratic Republic, Hungary, Poland, the Ukrainian SSR and the Union of Soviet Socialist Republics. The proposals in the second were submitted by the delegations of Belgium, Germany, Federal Republic of, Italy, Japan, the Netherlands and the United Kingdom of Great Britain and Northern Ireland.

8. These rules were first considered in the context of the draft rules of procedure of the Legal and Technical Commission and were provisionally approved in the first reading and transferred to Part X of the draft rules of procedure of the Council.

9. Several new proposals were tabled by the following delegations: Switzerland (LOS/PCN/WP.40), Brazil (LOS/PCN/WP.41), Belgium, Germany, Federal Republic of, Italy, Japan, Netherlands and United Kingdom of Great Britain and Northern Ireland (LOS/PCN/WP.42); and Netherlands (LOS/PCN/WP.43). Two new drafts for rule 22 on elections were prepared by the Secretariat and circulated as documents LOS/PCN/1987/CRP.15 and LOS/PCN/1987/CRP.17.

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10. On a second reading, the plenary provisionally approved draft rules 8, 9, 12, 19-21, 25, 27, 28, 32, 33, 35-52, 55-57, 59, 66-69, 74, 76-80, 86 and 88-90 and provisionally approved as orally amended rules 5-7, 10, 11, 13-18, paragraphs 1 and 3 of rules 22, 24, 26, 29, 30, 60-65, 72 and 87. No agreement was reached on rules 3, 4, 22 (para. 2), 23, 31, 34, 53, 54, 58, 70-71, 73, 75, 81-85, 91 and 92.

11. Although draft rule 7 was provisionally approved, as amended, it was noted that the ultimate decision as to its approval is contingent upon the final text of rule 95 on observers of the draft rules of procedure of the Assembly.

12. In concluding the debate on rule 16, the Chairman emphasized that this rule was provisionally approved with the understanding that the Council had no authority regarding the composition of delegations. Its function in this respect is confined to the examination of their credentials.

13. Rule 18 on submission of credentials by non-members of the Council was provisionally approved by the plenary on the understanding that when a second revision of the rules of the Council was prepared it would include a footnote to this rule indicating that it should be reviewed again by the plenary once the question of observers in the rules of procedure of the organs of the Authority was resolved.

14. In connection with draft rule 22, paragraph 2, two questions are still to be considered: the majority required for the election of the president; and the proposal for consultation among the regional groups on a candidate for the president of the Council before the official presentation of his nomination. In the framework of the discussion held on the draft rule, it was decided to use the principle of rotation among the regional groups for the presidency of the Council, and a proposal was also made to consider that principle for the presidency of the Assembly, the Legal and Technical Commission, the Economic Planning Commission and the Finance Committee. Further consideration was needed on that proposal.

15. On draft rule 31 concerning the submission of the annual budget, the Chairman stated, in concluding the debate, that the proposal submitted by Brazil (LOS/PCN/WP.41) was a step forward in finding a generally acceptable solution. Further reflection on provisions relating to the budgetary machinery was, however, needed and the experience of the United Nations in such matters might prove useful.

16. In summarizing the debate on rule 81 on the Finance Committee, there was general agreement on the qualifications of the members of the Committee and on the advisory nature of the body. The following issues were identified as needing further consideration. With respect to the composition of the Committee, should the criterion be the principle of equitable geographical distribution and special interests, or equal geographical distribution? Were the major contributors to constitute a special category? The powers and functions of the Finance Committee as well as the decision-making in that body would have to be examined. Questions also remained as to what organ should appoint the members of the Finance Committee and what the size of the Committee should be.

17. On the question of the programme of work of the plenary on the Authority for the next session of the Preparatory Commission, it was indicated that the plenary would proceed with a second reading of the draft rules of procedure of the Legal and Technical Commission and of the Economic Planning Commission. Time permitting, the plenary would return to the pending draft rules of procedure of the Council which are not hard-core issues. The plenary was informed by the Chairman of his intention to undertake, at the next session, informal consultations on the hard-core issues and to consider the possibility of establishing some kind of mechanism for dealing with those issues.

## E. Implementation of resolution II

18. With respect to the implementation of resolution II the attention of the Preparatory Commission is drawn to paragraphs 4, 5 and 6 of the Statement made by the Acting Chairman of the Preparatory Commission at the 37th plenary meeting, held on 6 August 1987 (LOS/PCN/L.49).

> "4. Accordingly, the Group of Technical Experts has been convened and has begun its meeting as of Monday, 3 August 1987. However, in the light of the recent developments, the Group of Technical Experts is unable at this time to examine all the revised applications submitted by the four applicants. As you are aware, negotiations aimed at resolving all pending practical problems have been in progress since the last session of the Preparatory Commission and have just recently been successfully concluded. I am gratified to inform the Preparatory Commission that the first applicants and the potential applicants have reported that a comprehensive settlement of practical problems has been achieved (see documents LOS/PCN/90 and LOS/PCN/91). This very positive outcome ensures that all applications submitted will now be considered by the Group of Technical Experts and the General Committee with a view to their registration. However, because of the short lapse of time since the negotiations were concluded and the need for adjustment of at least one of these applications in order to conform to the terms of the agreement, the date of consideration of the applications of France, Japan and the Soviet Union will have to be deferred. It should be noted that it was already agreed that these applications will be considered for registration together.
>
> "5. You will further recall that, in accordance with the understanding of 10 April 1987, the Preparatory Commission also decided that in any event the Group of Technical Experts and the General Committee shall consider the application of India during the current meeting. Thus the Group of Technical Experts has commenced the examinaton of this application.
>
> "6. The applications of France, Japan and the Soviet Union will be considered for registration as soon as the necessary technical adjustments have been made. These adjustments should be completed and the applications should be submitted to the Secretary-General not later than 15 November 1987."

## Registration of the application of India

19. Pursuant to rule 14, paragraph 3, of the rules of procedure of the Preparatory Commission, which stipulates that the General Committee shall act on behalf of the Preparatory Commission as the executive organ for the implementation of resolution II of the Third United Nations Conference on the Law of the Sea, the General Committee was convened on 13 August 1987 to consider the application submitted by India for registration as a pioneer investor in accordance with paragraph 12 of the Statement of Understanding on the implementation of resolution II of 10 April 1987, contained in document LOS/PCN/L.43/Rev.1.

20. The Group of Technical Experts which was established in accordance with the Statements of Understanding of 10 April 1987 (LOS/PCN/L.43/Rev.1) and 5 September 1986 (LOS/PCN/L.41/Rev.1) and to assist the General Committee, met from 3 to 7 August 1987 at United Nations Headquarters in New York to consider the application of India as a pioneer investor under resolution II.

21. During its meetings, the Group of Technical Experts undertook an examination of the application submitted by India "to determine whether the application is in conformity with resolution II of the Third United Nations Conference on the Law of the Sea, in particular with the principle of equal estimated commercial value, subject to the guidelines and procedures set forth in the Statements of Understanding of 5 September 1986 and 10 April 1987 and to submit a report on the application to the General Committee".

22. In accordance with its mandate the Group of Technical Experts examined the application of India and submitted to the General Committee its report on the application of the Government of the Republic of India for registration as a pioneer investor under resolution II (LOS/PCN/BUR/R.1).

23. In the report the Group unanimously concluded:

(a) That the application of India had been submitted in accordance with resolution II and the Statements of Understanding contained in documents LOS/PCN/L.41/Rev.1 and LOS/PCN/L.43/Rev.1;

(b) That the areas A and B of the application area, as adjusted,* were of equal estimated commercial value;

and recommended:

(a) That area B, as adjusted, be designated as the reserved area;

(b) That area A, as adjusted, which included an area of 52,300 square kilometres identified by the applicant, be designated as the pioneer area to be allocated to the applicant.

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* It was noted that the applicant consented to the adjustments.

24. The General Committee met on 13, 14 and 17 August 1987; the meetings of the Committee held on 13 and 14 August 1987 and on the morning of 17 August 1987 were closed meetings restricted to members of the General Committee. The Committee held an open meeting in the afternoon of 17 August 1987.

25. The General Committee had before it the report of the Group of Technical Experts (LOS/PCN/BUR/R.1). In addition the applicant had released for the information of the General Committee the formal part of its application (LOS/PCN/BUR/INF/R.1).

26. The General Committee undertook a careful and lengthy examination of the report of the Group of Technical Experts. Observations were made by several delegations. In considering the report of the Group of Technical Experts, many questions were posed and points of clarification and information were sought.

27. Responses were given and clarification and information were provided by the spokesman of the Group of Technical Experts upon the invitation of the Chairman, to the satisfaction of the members of the General Committee.

28. Those questions concerned, inter alia, the methodology utilized by the Group of Technical Experts, the adequacy of data supplied by the applicant, the location of sample points for metal value and issues relating to the bathymetric data provided by the applicant. Questions were also raised with respect to the terms used in the report.

29. It was the general view that the work accomplished by the Group of Technical Experts was commendable. Particular mention was made of the quality of the data and information provided by the applicant submitted by India especially in the light of the fact that India was a developing country.

30. After an exhaustive examination of the report of the Group of Technical Experts, the General Committee proceeded to consider and approve an agreed text of the decision on the registration.

31. In the course of the examination by the General Committee of the application of India, certain views were expressed with respect to the procedures followed by the General Committee.

32. In that context, views were put forward that, given the fact that the matter being dealt with by the General Committee concerned all members of the Preparatory Commission, there ought to be optimum transparency in the process of registration. In accordance with those views the meetings of the General Committee to consider the application of pioneer investors should be open.

33. It was also observed by several delegations that the General Committee in considering applications for registration of pioneer investors should act as an executive body with substantive functions to take decisions and not be a mere "rubber-stamping body".

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34. According to those views, as much information as possible should be made available. That was not meant to prejudice the commercial value of deep sea-bed mining activities. It was rather to say that neither the Group of Technical Experts nor the General Committee could be expected to make considered assessments without the essential data on which their recommendations and decisions should be based.

35. Views were submitted that the General Committee should examine each application to determine whether the requirements under resolution II, including the fundamental requirement of equal estimated commercial value, were met. Such a determination could be made, it was observed only on a case-by-case basis.

36. It was observed that different circumstances might require a different way of handling an application. Consequently, the procedure the General Committee had used in considering the application of India could not establish a sole procedure by which the General Committee would work to implement resolution II.

37. With regard to the concerns expressed by Sri Lanka, it was noted that the registration of India as a pioneer investor was without prejudice to the Statement of Understanding in Annex II of the Final Act of the Third United Nations Conference on the Law of the Sea.

38. Having considered the application of India in the light of the report of the Group of Technical Experts, taking into account the further information and clarification provided during its discussions, the General Committee decided:

(a) To designate area B as the part of the application area which was to be reserved for the conduct of activities by the Authority in the Area through the Enterprise or in association with developing States;

(b) To allocate area A as a pioneer area to the applicant, the Government of India; and to issue a certificate of registration to the applicant (LOS/PCN/94).

39. The two areas referred to in decision of the General Committee consist of approximately 150,000 square kilometres each.

40. At an open meeting of the General Committee, the Chairman read out the decision of the General Committee on the application of the Government of India as a pioneer investor under resolution II (LOS/PCN/94).

41. It was the general opinion that the registration of India as a pioneer investor represented a milestone in the evolution of the law of the sea. It was also the general view that that event not only marked the beginning of the implementation of the pioneer system established under resolution II but in fact gave concrete meaning to the principle of the common heritage of mankind embodied in the 1982 United Nations Convention on the Law of the Sea.

## F. Next meeting of the Group of Technical Experts

42. The next meeting of the Group of Technical Experts would be convened from 23 November to 4 December 1987. It would be followed by a meeting of the General Committee of the Preparatory Commission from 7 to 18 December 1987 in order to consider the revised applications for the registration of France, Japan and the Union of Soviet Socialist Republics as pioneer investors under resolution II of the Third United Nations Conference on the Law of the Sea.

## G. Sixth session

43. The Preparatory Commission would hold its sixth session in Kingston, Jamaica from 14 March to 8 April 1988.

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PREPARATORY COMMISSION FOR THE INTERNATIONAL
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New York, 7-18 December 1987

## REPORT OF THE CHAIRMAN OF THE PREPARATORY COMMISSION ON THE MEETING OF THE GENERAL COMMITTEE HELD ON 7-18 DECEMBER 1987 TO CONSIDER THE APPLICATIONS SUBMITTED BY FRANCE, JAPAN AND THE UNION OF SOVIET SOCIALIST REPUBLICS FOR REGISTRATION AS PIONEER INVESTORS UNDER RESOLUTION II

1. Pursuant to rule 14, paragraph 3, of the rules of procedure of the Preparatory Commission, which stipulates that the General Committee shall act on behalf of the Preparatory Commission as the executive organ for the implementation of resolution II of the Third United Nations Conference on the Law of the Sea, the General Committee was convened on 7 December 1987 to consider the applications submitted by:

(a) The Government of the Republic of France, on behalf of Institut Français de Recherche pour l'Exploitation de la Mer (IFREMER), acting on behalf of Association Française d'Etudes et de Recherche des Nodules (AFERNOD);

(b) The Government of Japan, on behalf of the Japanese enterprise "Deep Ocean Resources Development Co., Ltd." (DORD);

(c) The Government of the Union of Soviet Socialist Republics, on behalf of the Soviet State enterprise "Yuzhmorgeologiya";

for registration as pioneer investors, in accordance with the decisions of the Preparatory Commission contained in documents LOS/PCN/L.49, paragraph 6, and LOS/PCN/L.54/Rev.1, paragraph 42.

2. The Group of Technical Experts, which was established in accordance with the statements contained in documents LOS/PCN/L.41/Rev.1, annex, and LOS/PCN/L.43/Rev.1 to assist the General Committee in its consideration of the above-mentioned applications, met from 23 November to 5 December 1987.

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3. During its meetings, the Group of Technical Experts undertook an examination of the applications submitted by France, Japan and the Union of Soviet Socialist Republics to determine whether the applications were in conformity with resolution II of the Third United Nations Conference on the Law of the Sea, in particular with the principle of equal estimated commercial value, subject to the guidelines and procedures set forth in the statements contained in documents LOS/PCN/L.41/Rev.1 and LOS/PCN/L.43/Rev.1.

4. In accordance with its mandate, the Group of Technical Experts submitted to the General Committee its reports on the applications submitted by France, Japan and the Union of Soviet Socialist Republics (LOS/PCN/BUR/R.2, LOS/PCN/BUR/R.3 and LOS/PCN/BUR/R.4).

5. In those reports the Group of Technical Experts unanimously concluded that the applications submitted by France, Japan and the Union of Soviet Socialist Republics had been submitted in accordance with resolution II and the statements contained in documents LOS/PCN/L.41/Rev.1, annex, and LOS/PCN/L.43/Rev.1. Further, in respect of the areas to be reserved for the Authority and those to be allocated to the applicants as pioneer areas, the Group of Technical Experts also concluded that:

(a) Based on the results of investigations and analysis of the data available at the present level of prospecting and exploration for polymetallic nodules, both areas offer similar potentials in terms of finding competitive mine-sites in the respective areas. Accordingly, the estimated commercial value of the area proposed to be reserved for the Authority may thus be considered equal to the estimated commercial value of the area proposed to be allocated to the applicant;

(b) The estimated commercial value of the combination of the contributed areas may be considered to be equal to the average of the estimated commercial value of the areas identified by each of the three applicants.

## Recommendations of the Group of Technical Experts on the application submitted by France

6. The Group of Technical Experts recommended that:

(a) The area consisting of Sector $A_1$ (20,180 sq km in the central region), Sector $B_2$ (3,550 sq km in the central region), Sector $C_1$ (22,350 sq km in the western region) and Sector $A_2$ (109,360 sq km in the western region), with a total of 155,440 sq km, should be designated as the reserved area;

(b) The area consisting of Sector $F_1$ (43,960 sq km in the central region), Sector $F_2$ (8,330 sq km in the western region), Sector $B_1$ (4,960 sq km in the central region) and Sector $C_2$ (17,750 sq km in the western region), with a total of 75,000 sq km, should be designated as the pioneer area to be allocated to the applicant (LOS/PCN/BUR/R.2).

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## Recommendations of the Group of Technical Experts on the application submitted by Japan

7. The Group of Technical Experts recommended that:

(a) The area consisting of Sector CONT (17,300 sq km in the central region), Sector $B_2$ (15,900 sq km in the eastern region), Sector $B_1$ (6,800 sq km in the western region), Sector $AT_1$ (43,500 sq km in the western region), Sector $AT_2$ (23,100 sq km in the western region), Sector $AT_3$ (36,800 sq km in the western region) and Sector $AT_4$ (6,600 sq km in the central region), with a total of 150,000 sq km, should be designated as the reserved area;

(b) The area consisting of Sector $SA_1$ (34,300 sq km in the western region), Sector $SA_2$ (18,000 sq km in the central region) and Sector A (22,700 sq km in the western region), with a total of 75,000 sq km, should be designated as the pioneer area to be allocated to the applicant (LOS/PCN/BUR/R.3).

## Recommendations of the Group of Technical Experts on the application submitted by the Union of Soviet Socialist Republics

8. The Group of Technical Experts recommended that:

(a) The area consisting of Sector II (15,000 sq km in the central region), Sector $X_1$ (8,940 sq km in the central region), Sector $X_2$ (13,760 sq km in the western region), Sector $VI_1$ (46,267 sq km in the western region) and Sector $VI_2$ (48,361 sq km in the western region), with a total area of 132,328 sq km, should be designated as the reserved area;

(b) The area consisting of Sector III (52,300 sq km in the central region), Sector $Y_1$ (8,940 sq km in the central region) and Sector $Y_2$ (13,760 sq km in the western region), with a total of 75,000 sq km, should be designated as the pioneer area to be allocated to the applicant (LOS/PCN/BUR/R.4).

## Consideration of the reports of the Group of Technical Experts by the General Committee

9. The General Committee met in eight closed meetings restricted to members of the Committee. Two of these meetings were formal meetings and six were informal. The Committee held an open meeting on the afternoon of 17 December 1987.

10. The General Committee had before it the reports of the Group of Technical Experts (LOS/PCN/BUR/R.2-4). In addition, the applicants had released for the information of the General Committee parts of their respective applications contained in documents LOS/PCN/BUR/INF/R.2-4 and 6-7.

11. Prior to the meeting of the General Committee, informal briefing meetings were held at which the spokesmen for the Group of Technical Experts clarified the work of the Group and the basis on which it reached its recommendations.

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12. The General Committee undertook a careful and lengthy examination of the reports of the Group of Technical Experts. Observations were made by several delegations. In considering the reports, many questions were posed and points of clarification and information were sought.

13. It was noted that it was due to the complex configuration of the claims that the applications had been submitted only after a lengthy and arduous period of negotiations to resolve conflicts with respect to overlapping claims.

14. During the meetings of the General Committee several questions were raised - questions relating to the adequacy of the data submitted by the applicants, considering in particular the differences in the number and nature of the sample locations used by the applicants; to the factors considered by the Group of Technical Experts in estimating the commercial values of various areas; to the manner in which the Group was able to reach similar conclusions on the issue of equal estimated commercial value with respect to the three applications, despite different information and somewhat different situations; and questions relating to differences between these applications and the Indian application.

15. In addition, in the General Committee questions were posed concerning, inter alia, the methodology utilized by the Group of Technical Experts and the terms used in the report. Questions were also raised as to the amount of money expended in prospecting activities by the applicants.

16. In the meeting of the General Committee some delegations proposed that there should be a safeguard clause whereby the pioneer investors would pay compensation if the area reserved for the Authority turns out not to be of equal estimated commercial value to that of the area allocated to the applicants. Certain delegations, including the certifying States, declared that this idea was alien to the pioneer system as embodied in resolution II and therefore was totally unacceptable.

17. It was observed that there was a difference in the wording used in the report of the Group of Technical Experts on the Indian application in certifying commercial equivalence from that used in the three reports which were before the Committee. It was also noted that the data submitted for some sectors of the proposed pioneer areas were generally more comprehensive than the data submitted for some sectors of the area proposed to be reserved for the Authority.

18. Certain delegations pointed out that these questions were important to the General Committee since it had to satisfy itself that the Authority, in accordance with the provisions of resolution II, would receive areas of equal estimated commercial value to those of the applicants. This was not only fundamental to the parallel system of exploitation embodied in the Convention, but was also of paramount importance for the viability of the international sea-bed régime contained in the United Nations Convention on the Law of the Sea.

19. Responses to these questions were given and clarification and information were provided by the spokesmen of the Group of Technical Experts as well as by the pioneer investors during informal briefing sessions and in the meeting of the General Committee itself.

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20. During the meeting of the General Committee the issue of the effectiveness of control by Japan over "Deep Ocean Resources Development Co., Ltd." (DORD) was raised. It was pointed out that, in accordance with the application submitted by Japan, the company had been registered in Japan and is a juridical person which possesses Japanese nationality. The Japanese delegation stated that the Government of Japan exercises effective control over "Deep Ocean Resources Development Co., Ltd." (DORD) through its national laws and regulations and, in addition, holds a 70 per cent interest in the corporation. France also confirmed that the Institut Français de Recherche pour l'Exploitation de la Mer (IFREMER), acting on behalf of Association Française d'Etudes et de Recherche des Nodules (AFERNOD), had French nationality and French Government participation. In response to the view put forward that the deciding factor was not the nationality of the company but the effective control by the certifying State, the attention of the General Committee was drawn to the fact that resolution II required that a pioneer investor should either possess the nationality of the certifying State or be effectively controlled by it or its nationals.

21. Certain delegations stressed the importance of ensuring that pioneer activities should be conducted in accordance with the principles relating to the preservation of the marine environment as set forth in the United Nations Convention on the Law of the Sea. The view that pioneer activities should be conducted in a manner compatible with the Convention was also emphasized.

22. After an examination of the reports of the Group of Technical Experts, the General Committee proceeded to consider and approve agreed texts of the decisions on registration.

23. Having considered the applications submitted by France, Japan and the Union of Soviet Socialist Republics in the light of the reports of the Group of Technical Experts, taking into account the further information and clarification provided during the discussion, the General Committee decided to approve the recommendations embodied in the reports of the Group of Technical Experts (LOS/PCN/BUR/R.2-4) as contained in documents LOS/PCN/97-99.

24. At an open meeting of the General Committee the Chairman read out the decisions of the Committee on the applications submitted by the Governments of France, Japan and the Union of Soviet Socialist Republics for registration as pioneer investors under resolution II (LOS/PCN/97-99).

25. Following this, the Chairman of the Preparatory Commission read out the following statement:

> "The General Committee is of the view that, as a result of registration, certain rights accrue to the pioneer investors and, at the same time, certain obligations flow from registration for the pioneer investors and the certifying States, in particular under paragraphs 4, 5, 7 and 12 of resolution II and the statement contained in LOS/PCN/L.41/Rev.1, annex."

26. As a consequence of the registration of the pioneer investors in accordance with paragraphs 9 and 12 of the statement contained in LOS/PCN/L.41/Rev.1, annex,

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certain areas have been voluntarily relinquished upon registration and deposited with the Preparatory Commission. These will be reserved to form part of the application areas of potential applicants qualified to apply as pioneer investors under resolution II, paragraph 1 (a) (ii), until the Convention enters into force.

27. The registration of the first group of pioneer investors constitutes an important phase in the implementation of resolution II. It also represents a significant landmark in the implementation of the pioneer system, thus strengthening the régime for the international sea-bed as embodied in the United Nations Convention on the Law of the Sea.

28. The General Committee expressed its gratitude to the Group of Technical Experts for the comprehensive reports on the three applications, which considerably facilitated the work of the General Committee. The General Committee also wishes to thank the spokesmen of the Group of Technical Experts, Mr. Luis G. Preval Páez (Cuba) and Dr. T. R. P. Singh (India), for the excellent and helpful manner in which they explained the reports of the Group and in particular the basis on which it reached its recommendations.

29. Finally, the General Committee also expressed its appreciation to the Secretariat staff for their assistance and efforts in facilitating the work of the Group of Technical Experts and the work of the General Committee.

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Sixth session
Kingston, Jamaica
14 March-8 April 1988

# REPORT OF THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL FOR THE LAW OF THE SEA TO THE PREPARATORY COMMISSION FOR THE INTERNATIONAL SEA-BED AUTHORITY AND FOR THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA REGARDING THE REGISTRATION OF PIONEER INVESTORS UNDER RESOLUTION II

1. Pursuant to the decision of 17 August 1987 to register India as a pioneer investor (LOS/PCN/94** and Corr.1) and the decisions of 17 December 1987 to register the applications submitted by France (LOS/PCN/97), Japan (LOS/PCN/98) and the Union of Soviet Socialist Republics (LOS/PCN/99) for registration as pioneer investors taken by the General Committee of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea, the Secretary-General of the United Nations was requested to undertake a number of administrative actions which included the following:

(i) Informing all participants of the Preparatory Commission of the decisions of its General Committee on the registration of pioneer investors;

(ii) Giving due publicity to the co-ordinates of the designated, allocated and, where appropriate, the relinquished areas deposited with the Preparatory Commission for use by potential applicants;

(iii) Maintaining a register for the purpose of registering the pioneer investors and recording the co-ordinates of the areas referred to above;

(iv) Advising the applicants of the administrative arrangements necessary for the payment of fees and preparing and issuing to the applicants certificates of registration.

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This report provides information to the Preparatory Commission on the actions which have been taken on these matters.

## Due publicity

2. The decisions of the General Committee regarding the registration of the applications submitted by India, France, Japan and the Union of Soviet Socialist Republics were issued as official documents and have been made available to all participants of the Preparatory Commission. The reports of the Chairman of the Preparatory Commission on the decisions relating to registration have been issued as documents of the Commission (LOS/PCN/L.54/Rev.1 and LOS/PCN/L.55) and distributed to all participants.

3. The Secretary-General has given due publicity to the decisions of the Preparatory Commission by means of a note verbale dated 23 February 1988 to all States Members of the United Nations and Permanent Observers. The note verbale was accompanied by copies of the decisions taken by the General Committee concerning registration, including the lists of co-ordinates.

4. In addition, the United Nations Office for Ocean Affairs and for the Law of the Sea is publishing a special issue of the Law of the Sea Bulletin which will contain the decisions and other material relating to the registration of pioneer investors, including charts of the relevant areas.

## Archives and documents and data

5. The Secretary-General has opened and maintains a register for the purpose of recording all pertinent information and data relating to the registration of pioneer investors.

6. Following the registration of the pioneer investors, the data (station locations, grade and abundance of nodules, etc.) provided by the applicants for the reserved and allocated areas were disaggregated. The disaggregated data were then verified and certified by members of the Group of Technical Experts in the presence of representatives of the pioneer investor concerned. Separate files have been established for each set of data and are being held in safe-keeping by the Secretary-General.

## Confidentiality of data and information

7. The Secretary-General has taken measures to ensure the confidentiality of data and information relating to the registration of pioneer investors and the safe-keeping of such data and information. In this regard, it should be noted that before the examination of the applications, each member of the Group

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of Technical Experts gave a written undertaking to the Secretary-General to maintain confidentiality with respect to data and information made available to him. The duty of the members of the Group of Technical Experts not to disclose confidential information constitutes both an obligation in respect of the individual's appointment for the purposes of the Preparatory Commission and a personal responsibility to the applicants. It should be recalled that, in accordance with document LOS/PCN/L.41/Rev.1, Annex, paragraph 8, "the members of the Group of Technical Experts will maintain the confidentiality of the data and information submitted to them even after the conclusion of their functions".

## Issuance of certificate

8. The certificate relating to the registration of India was signed by the Secretary-General on 18 December 1987 and presented to the representatives of the Government of India on the same date.

9. The certificates relating to the registration of France, Japan and the Union of Soviet Socialist Republics are being printed and will be issued shortly.

## Financial matters

10. In accordance with the terms of resolution II each pioneer investor was required to pay a registration fee of $US 250,000. The United Nations has received the payment of $US 250,000 from each of the four pioneer investors as follows:

India - 29 September 1987
Japan - 28 December 1987
USSR - 28 January 1988
France - 12 February 1988

The Office of Financial Services of the United Nations has established a special account for these funds which will be administered in accordance with the financial regulations and rules applicable to such funds. Under these rules the account will be charged an administrative fee of 13 per cent on each disbursement.

11. In accordance with the decision taken by the Preparatory Commission on 21 August 1987 (LOS/PCN/96), the Secretary-General has paid the travel costs and per diem of the members of the Group of Technical Experts in respect of the meeting of that Group which took place from 23 November to 4 December 1987. Claims for expenses related to the first meeting of the Group of Technical Experts from 3 to 7 August 1987 are being processed in accordance with United Nations practice. It is to be recalled that the Preparatory Commission had taken the decision to reimburse the experts subsequent to their first meeting.

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## STATEMENT BY THE CHAIRMAN OF THE PREPARATORY COMMISSION

1. During the present session the plenary dealt with three main matters:

(a) Organization of the work of the Commission;

(b) Preparation of the rules, regulations and procedures relating to the various organs of the Authority;

(c) Implementation of resolution II; and

(d) Other matters.

### A. Organization of the work of the Commission

2. On 14 March 1988, at its 41st meeting, the plenary adopted, on the recommendation of the General Committee, a programme of work for the current session of the Commission which enabled all the special commissions and the plenary on the Authority to meet. The programme of work was adopted on the understanding that changes would be made as circumstances required.

3. In response to suggestions from certain delegations the Chairman undertook informal consultations with all regional groups with respect to the future work of the Commission, with particular reference to the frequency and length of meetings.

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4. It was generally agreed that:

(a) the understanding on these matters contained in document LOS/PCN/27 of 8 September 1983 should remain valid, including the understanding that the Preparatory Commission should continue to meet twice a year;

(b) the length of the two meetings to be held each year should be adjusted if necessary in consultation with all regional groups during the summer meeting of the previous year;

(c) the summer meeting of the current year will be held in New York from ______ to _____.

## B. Preparation of the rules, regulations and procedures relating to the various organs of the Authority

5. At its sixth session the plenary held nine meetings on the Authority.

6. At the first meeting it was decided that the plenary would begin this session with the second reading of the draft rules of procedure of the Legal and Technical Commission and then proceed with the second reading of the draft rules of procedure of the Economic Planning Commission. Time permitting, the plenary would also discuss those pending rules of procedure of the Assembly and later of the Council that do not belong to the hard-core issues.

7. In order to facilitate the work of the plenary and in response to a request, the secretariat prepared and circulated in the course of the session the second revision of the draft rules of procedure of the Assembly and a list of provisions relating to the frequency of sessions.

8. The plenary completed consideration of the draft rules of procedure of the Legal and Technical Commission. The present text is now quite close to the final With the exception of rules 14, 37, 40 and 54 concerning elections, decisions on questions of substance and observers which are hard-core issues and the section on special procedures relating to the examination of plans of work, the plenary provisionally approved all other rules. This will be of great assistance in the future consideration of the draft rules of procedure of the Economic Planning Commission which contain many similar provisions.

9. In examining the draft rules of procedure of the Legal and Technical Commission, the plenary had before it a revised version of these rules circulated by the secretariat on 31 July 1987 as document LOS/PCN/WP.31/Rev.1 and several sets of proposals and amendments submitted by various delegations and groups of delegations at the previous sessions and contained in documents LOS/PCN/WP.28, LOS/PCN/WP.32, LOS/PCN/WP.34 and LOS/PCN/WP.35.

10. The plenary, on a second reading, provisionally approved, without any amendments, draft rules 5, 9, 10-13, 15, 17-20, 22-36, 38-39, 41-43, 45-52, 55, 57-60.

11. Rule 10 dealing with incompatible activities and confidentiality was adopted on the understanding that the issues of confidentiality and liability and the proposals submitted in this regard would be addressed at an appropriate time in the future in the general context of all organs of the Authority and the Tribunal for the Law of the Sea, since they are dealt with not only by the plenary, but also by Special Commissions 3 and 4.

12. With reference to rule 42 concerning recommendations to the Council, it was decided that the plenary would come back to it, if so required, at a later stage after consultations on the hard-core issue of decision-making.

13. Rules 55 and 56 concerning the languages of the Commission were provisionally approved with one delegation reserving its position.

14. Draft rules 1-4, 6-8, 16, 21, 44, 53 and 56 were provisionally approved with amendments. It should be noted that in the case of rules 7, 8, 16, 21 and 53 substantial changes had been introduced in the course of their examination and some of these rules were almost entirely redrafted.

15. Paragraph 2 of rule 2, establishing the procedure on taking decisions for holding meetings of the Commission outside the seat of the Authority was approved on the understanding that the report on the work of the plenary at the current session would make reference to a proposal extensively discussed by delegations. This proposal envisaged that the text of paragraph 2 should be supplemented by a provision enabling any member of the Council to propose that a session of the Commission may be held at a venue away from the seat of the Authority. This addition received support of some delegations, while other delegations felt that it might not be advisable to insert such a provision; therefore, it was not incorporated in the text of paragraph 2 of rule 2.

16. As far as rule 3 is concerned the delegation of the USSR stated that it had given its consent to the text of this rule on the understanding that concern for financial implications would play a significant role in the work of the Commission.

17. Although rule 4 concerning notification on the sessions of the Legal and Technical Commission was provisionally approved, it was acknowledged that since this rule contains reference to observers its text could be reviewed in this respect at a later stage once the issue of observers was resolved in general.

18. On the second reading the plenary considered and approved the inclusion in the rules of procedure of the Legal and Technical Commission of a new rule providing for the submission by the Secretary-General to the members of the Commission of reports concerning the estimated costs involved as well as the financial and budgetary implications of recommendations or proposals considered by the Commission. The plenary adopted this rule with the understanding that the concern expressed by several delegations about the need to spell out in the rule that the reference to financial implications includes, where appropriate, financial

obligations of States, would be addressed when the relevant rules of procedure the Council were considered. The final decision on the proper placing of this rule and in particular whether the second sentence should be placed in the in the section dealing with the duties of the Secretary-General or in the section concerning decision-making was left for the future.

19. There was no debate and no decision was taken on rule 14 relating to the election of the Chairman and the Bureau, on rule 40 on decision-making nor on rule 54 concerning participation by observers, because they belong to the hard-core issues on which the Chairman intended to undertake separate consultations. Rule 37 on reconsideration of proposals was left pending because of its close link to the hard-core issue of decision-making.

20. At the present session the plenary started, but did not complete consideration of the suggestions made to include in the rules of procedure of Legal and Technical Commission a new section on special procedures for the approval of plans of work. Such proposals were introduced in documents LOS/PCN/WP.28 and LOS/PCN/WP.32, circulated on 14 August 1985 and 25 March 1986, respectively. The first of these documents was submitted by the delegations of Belgium, Germany, Federal Republic of, Italy, Japan, the Netherlands and the United Kingdom of Great Britain and Northern Ireland. The second was presented by the delegations of Bulgaria, the Byelorussian SSR, Czechoslovakia, the German Democratic Republic, Hungary, Poland, the Ukrainian SSR and the Union of Soviet Socialist Republics.

21. At the end of the session, in order to facilitate the discussions, the secretariat was asked to prepare a paper on the procedures that the Commission should use to review the proposed plans of work. In preparing this paper, the secretariat was requested to cover the following elements: order of consideration of the proposed plans of work; grounds on which the Commission should make recommendations in reviewing plans of work; establishment of a time-limit during which the proposed plan of work should be reviewed by the Commission; possibility for extending the time-limit by a 45-day remedy period; procedures for submitting appropriate recommendations by the Commission; requirements of annex III, article 8 of the Convention. The aforementioned paper was submitted by the secretariat on 5 April 1988 and circulated in document LOS/PCN/1988/CRP.24.

22. In connection with the future work of the plenary, the secretariat was requested to prepare terms of reference for the Finance Committee and a paper on the rules of all organs of the Authority relating to the adoption of decisions involving financial implication. It was also understood that revised versions of the draft rules of procedure of the Council and of the Legal and Technical Commission would be circulated by the secretariat before the next session of the plenary in New York.

23. As was envisaged in the Chairman's report on the summer meeting held in New York in August 1987, the Chairman began informal consultation on the hard-core issues before the plenary. It was felt that this matter should be taken up at a later stage.

24. On the question of the programme of work of the plenary on the Authority for the next meeting of the Preparatory Commission, it was indicated that the plenary will resume its consideration of the proposed section VII bis on special procedures for the approval of plans of work. It will then proceed to a second reading of the draft rules of procedure of the Economic Planning Commission. The plenary would then return to the pending draft rules of procedure of the Assembly and of the Council which are not hard-core issues.

## C. Implementation of resolution II

25. At the 42nd meeting of the plenary held on 15 March 1988, the Chairman presented his report on the meeting of the General Committee held on 7-18 December 1987 to consider the applications submitted by France, Japan and the Union of Soviet Socialist Republics for registration as pioneer investors under resolution II. As the report of the Chairman was already contained in document LOS/PCN/L.55 the Chairman outlined some of the salient points in that report.

26. He noted that, in accordance with the decision of the Preparatory Commission, the Group of Technical Experts met from 23 November to 5 December 1987 to examine the applications submitted by France, Japan and the Union of Soviet Socialist Republics, all 15 members of the Group being present. The Group of Experts then submitted its reports on the three applications to the General Committee. These are contained in documents LOS/PCN/97, LOS/PCN/98 and LOS/PCN/99.

27. The General Committee met from 7 to 18 December 1987 to consider the applications. The General Committee had before it not only the reports of the group of technical experts but also documents containing information submitted by the three applicants.

28. During the consideration of the applications, responses to certain questions posed by the members of the General Committee were given and clarifications and information were provided by the spokesmen of the Group of Technical Experts as well as by the pioneer investors at informal briefing sessions and in the meeting of the General Committee itself.

29. After an examination of the reports of the Group of Technical Experts, the General Committee proceeded to consider and approve agreed texts of the decisions on registration.

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30. At an open meeting of the General Committee the Chairman read out the decisions of the Committee on the applications submitted by the Governments of France, Japan and the Union of Soviet Socialist Republics for registration as pioneer investors under resolution II (LOS/PCN/97-99).

31. Following this, the Chairman of the Preparatory Commission read out the following statement:

> "The General Committee is of the view that, as a result of registration, certain rights accrue to the pioneer investors and, at the same time, certain obligations flow from registration for the pioneer investors and the certifying States, in particular under paragraphs 4, 5, 7 and 12 of resolution II and the statement contained in LOS/PCN/L.41/Rev.1, Annex."

32. The Special Representative of the Secretary-General presented a report on the administrative actions taken by the Secretary-General of the United Nations following registration (LOS/PCN/L.57).

33. In the course of the present session the Chairman undertook consultations on the implementation of the obligations of the registered pioneer investors. An informal consultative group has been established to deal with these issues.

34. The consultative group held two meetings during which questions were posed and answers were provided relating to the implementation of these obligations. It was understood that this group will resume its consideration of the matter at the beginning of the next summer meeting of the Commission with a view to concluding its consideration of this matter.

## D. Other matters

35. On 30 March 1988 delegations attending this session of the Preparatory Commission were invited to visit the Soviet scientific survey ship, "Akademik Sidorenko" and they were given a guided tour of the ship.

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Sixth session
Kingston, Jamaica
14 March-8 April 1988

## STATEMENT BY THE CHAIRMAN OF THE PREPARATORY COMMISSION

### Corrigendum

At the end of paragraph 4 (c), insert 15 August and 2 September 1988.

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PREPARATORY COMMISSION FOR THE
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AND FOR THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA
New York, 15 August-2 September 1988

# STATEMENT BY THE CHAIRMAN OF THE PREPARATORY COMMISSION

1. During the present session, the plenary dealt with the following matters:

(a) Organisation of the work of the Commission;

(b) Preparation of the rules, regulations and procedures relating to the various organs of the Authority;

(c) Implementation of resolution II;

(d) Tribute to Mohammad Zia-ul-Haq, former President of the Islamic Republic of Pakistan.

## I. ORGANIZATION OF WORK

2. On 15 August 1988 the plenary, on the recommendation of the General Committee, adopted a programme of work for the current session of the Commission which enabled all the special commissions and the plenary on the Authority to meet. The programme was adopted on the understanding that changes would be made as circumstances required.

## II. PREPARATION OF THE RULES, REGULATIONS AND PROCEDURES RELATING TO THE VARIOUS ORGANS OF THE AUTHORITY

3. At the present session the plenary held seven meetings on the Authority.

4. In accordance with the decision taken at the previous session in Kingston, the plenary started its work with the second reading of the draft rules of procedure of the Economic Planning Commission. Subsequently, the plenary proceeded to the consideration of the special procedures relating to the approval of plans of work

and of the pending draft rules of procedure of the Assembly and of the Council which do not pertain to hard-core issues. At the end of the session, the plenary had a general exchange of views on the working paper on the establishment of the Finance Committee, circulated by the Secretariat on 11 August 1988 as document LOS/PCN/WP.45.

5. In examining the draft rules of procedure of the Economic Planning Commission, the plenary had before it a revised version of those rules circulated by the Secretariat on 24 July 1987 in document LOS/PCN/WP.36/Rev.1 and several sets of proposals and amendments thereto submitted by various delegations and groups of delegations. They are contained in documents LOS/PCN/WP.37, WP.38 and WP.39. In addition, the plenary was able to rely on the draft rules of procedure of the Legal and Technical Commission, circulated on 30 June 1988 in document LOS/PCN/WP.31/Rev.2 as revised during the second reading. The substantial progress achieved in finalizing the rules for the Legal and Technical Commission significantly facilitated consideration of the draft rules of procedure of the Economic Planning Commission, since the rules of procedure for both Commissions contain many similar provisions.

6. The plenary devoted two meetings to the second reading of the draft rules of procedure of the Economic Planning Commission and as a result provisionally approved, without any amendments, draft rules 5, 9, 10, 11, 13, 17-20, 22-36, 38-39, 41-50, 52, 55 and 56-59.

7. Rule 10 entitled "Incompatible activities and confidentiality" was provisionally adopted. However, since concern with the terminology, in particular with the use of the term "incompatible activities", was expressed in the course of the discussion by several delegations, the plenary decided that this problem would be addressed when the issue of confidentiality was studied in the general context of all organs of the Authority and of the International Tribunal for the Law of the Sea.

8. With reference to rules 55-58 concerning the languages of the Commission, the delegation of Japan, while not opposing its provisional approval, recalled the reservation it had expressed several times in the past on the issue of languages.

9. Upon the adoption of rule 58, relating to the languages in which recommendations, proposals and reports of the Commission are published, the plenary reviewed the similar rule in the draft rules of procedure for the Legal and Technical Commission, rule 60, the text of which had been already provisionally approved. The plenary decided to change that rule by bringing it in conformity with rule 58 of the Economic Planning Commission.

10. Rule 53 on participation of members of the Authority was provisionally approved as orally amended.

11. Due to the similarity between various rules of procedure of the two Commissions, the plenary approved provisionally rules 1-4, 6-8, 12, 16, 21 and 51 of the Economic Planning Commission by aligning them with the text of the relevant rules of the Legal and Technical Commission.

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12. It was decided to merge rules 60 and 61 on meetings, and to redraft them, using the text of rule 62 of the Legal and Technical Commission as a model.

13. With regard to rule 3 on the procedure for convening sessions of the Commission, the delegation of the Union of Soviet Socialist Republics reaffirmed that its consent to the text of this rule was based on the understanding that concern for financial implications would play a significant role in the convening of sessions of the Commission.

14. With respect to rule 16 (Acting Chairman), the delegation of the USSR reiterated its position, expressed on several occasions, that there was a need for the fair distribution of posts among regional groups in all organs of the Authority.

15. The plenary provisionally approved a new rule entitled "Estimate of expenditures" to be inserted in section V after rule 21. The new rule follows the text of rule 22 of the draft rules of procedure for the Legal and Technical Commission. It was adopted on the understanding that the concern expressed about the need to spell out in such a rule that the reference to financial implications included, where appropriate, the financial obligations of States, would be addressed when the relevant rules of procedure of the Council were considered. As in the case of the above-mentioned rule 22, the final decision on the proper placing of the new rule and in particular whether its second sentence should be placed in the section dealing with the duties of the Secretary-General or in the section concerning decision-making was left for the future.

16. There was no debate on rule 14 (Election of a Chairman and the Bureau), rule 37 (Reconsideration of proposals), rule 40 (Decision-making on questions of substance) and rule 54 (Participation of observers), but those rules were left pending because they either pertain or are linked to hard-core issues and are subject to consultations by the Chairman.

17. At the current session the plenary devoted one meeting to the examination of special procedures for the approval of plans of work. In addition to the proposals submitted on the subject in documents LOS/PCN/WP.28 and WP.32 by two groups of States, the plenary had before it section VIII ("Consideration of plans of work") of the revised draft rules of procedure of the Legal and Technical Commission as circulated in document LOS/PCN/WP.31/Rev.2. In reviewing the matter the plenary also took note of the relevant provisions contained in section 2 of part IV ("Consideration of applications for approval of plans of work") of the draft Regulations on Prospecting, Exploration and Exploitation of Polymetallic Nodules in the Area, as circulated on 6 June 1988 in document LOS/PCN/SCN.3/WP.6/Rev.1.

18. During the discussion, the following elements were identified for further consideration, based on a step-by-step approach: submission of applications and order of their review; remedial procedures; designation of the part to be allocated to the Authority; procedures for the establishment of a time-limit required for reviewing the proposed plans of work; and decision-making procedures for the adoption of recommendations with regard to the applications. Before continuing further discussion, the Chairman will undertake consultations on matters related to special procedures.

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19. In accordance with the decision taken this year at Kingston, the plenary at the present session reviewed those pending draft rules of procedure of the Assembly and of the Council that do not deal with hard-core issues. In order to further the progress of the work, some other of those bodies' draft rules left pending because of their link to hard-core issues were also examined, and on a number of occasions the plenary succeeded in overcoming certain problems associated with them. In considering the draft rules of procedure of the Assembly and of the Council, the plenary based its work on the texts reproduced in documents LOS/PCN/WP.20/Rev.2 and WP.26/Rev.2, respectively.

20. In the course of the review of the draft rules of procedure of the Assembly, the plenary provisionally adopted without amendments rules 3-5, 7, 9, 10, 22-27, 36, 59, 67 and 105, and rules 1 and 48-50 as orally amended.

21. Draft rules 22-26, 50 and 59 were provisionally approved on the understanding that, if required, they would be reconsidered once rule 93 on observers was finalized.

22. In adopting draft rule 49 (Records and sound recordings of meetings), the plenary proceeded on the assumption that the Assembly would, if necessary, decide on the services to be provided to its subsidiary organs.

23. Rule 105 concerning financial implications of resolutions was adopted. However, it was understood that it might need some modifications and adjustments in the light of the provisions to be adopted on the Finance Committee.

24. The plenary decided to merge the texts of rules 50 and 51 concerning meetings of the Assembly and its subsidiary organs, just as had been done with the relevant draft rules of procedure of the Legal and Technical Commission and the Economic Planning Commission. Rule 51, paragraph 1, was left in abeyance pending the resolution of the hard-core issue of subsidiary organs.

25. The plenary deleted in the draft rules of procedure of the Assembly rule 43 (Regulations concerning the Secretariat), rule 47 (Languages of the Journal of the Authority) and rule 69 (Quorum required). The issue of the quorum was already provided for in rules 70 and 71.

26. As far as rule 68 on voting rights was concerned, the delegation of the European Economic Community introduced an amendment concerning the participation in decision-making of an international organization referred to in annex IX of the United Nations Convention on the Law of the Sea. Owing to the lack of time, the consideration of this amendment was not completed at the current session.

27. The plenary briefly dealt with draft rules 28, 35, 40, 41, 51, 83 and 94 but was unable to resolve them completely at the current stage since consultations on hard-core issues, to which they were closely linked or belonged, had not yet been undertaken.

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28. In examining the draft rules of procedure of the Council, the plenary provisionally adopted without amendments rules 3, 23 and 85. Rule 4 was provisionally approved as orally amended.

29. Rule 22, paragraph 2, which had been left pending, was provisionally approved at the present session. In the consideration of that paragraph, it was observed that the proposal referred to in paragraph 14 of the statement made by the Chairman on 20 August 1987 and circulated in document LOS/PCN/L.54 needed further consideration. That proposal requires observance of the principle of rotation of the presidency among the regional groups in the Assembly, the Council, the Legal and Technical Commission and the Economic Planning Commission.

30. The plenary decided to merge rules 90 and 91 concerning meetings of the Council and to approve provisionally the text of a new rule, which was similar to the text of the relevant rule for the Assembly.

31. Draft rule 24, entitled "Temporary President", although already provisionally approved by the plenary during the previous reading, was deleted from the rules of the Council on account of the existence of rule 23.

32. With reference to the rules of procedure for all organs of the Authority, it was felt that they needed harmonization of a technical character, which should be undertaken by the Secretariat.

33. With regard to the programme of work of the plenary on the Authority at the next session, it was decided that the plenary would continue consideration of the matters related to the Finance Committee and start discussions on the draft provisions of the Headquarters Agreement. In this connection, the Secretariat was requested to prepare a draft text of such an agreement. It is also the intention of the Chairman to undertake, time permitting and without prejudice to the work of the consultative group on the implementation of obligations of the registered pioneer investors, consultations concerning certain hard-core issues, namely the issues relating to observers and subsidiary organs.

## III. IMPLEMENTATION OF RESOLUTION II

34. At the current session of the Preparatory Commission, the Consultative Group on the implementation of resolution II resumed its consideration of the implementation of the obligations of the registered pioneer investors and the certifying States. The Group held three meetings. These issues were also discussed in informal consultations between the Chairman of the Preparatory Commission and the various interest groups. The issues related, inter alia, to the following matters:

(a) Exploration in the area reserved for activities by the Authority (para. 12 (a) (i) of resolution II and para. 14 of LOS/PCN/L.41/Rev.1, annex);

(b) Annual fixed fee of $US 1 million (para. 7 (b) of resolution II);

(c) Training of personnel (para. 12 (a) (ii) of resolution II);

(d) Registration fee (para. 7 (a) of resolution II);

(e) Transfer of technology (para. 12 (a) (iii) of resolution II);

(f) Periodic expenditures (para. 7 (c) of resolution II);

(g) Funds for the Enterprise (para. 12 (b) (i) of resolution II);

(h) Periodic reports (paras. 5 (b) and 12 (b) (ii) of resolution II);

(i) Pioneer activities to be conducted in accordance with the provisions of the United Nations Convention on the Law of the Sea, including those relating to the preservation of the marine environment.

35. The Group of 77 reiterated its position with respect to the payment of compensation if the area reserved for the Authority turns out not to be of equal estimated commercial value to that of the area allocated to the applicants (see LOS/PCN/L.55).

36. The pioneer investors declared that that was not an obligation and therefore found that idea of compensation unacceptable.

37. The group of potential applicants also expressed strong reservations on the issue of compensation.

38. In the course of his informal consultations, the Chairman submitted to the various interest groups some suggestions which were intended to pave the way towards a resolution of the issues. Some of the interest groups responded to the Chairman's suggestions. In this context it is to be noted that the group of registered pioneer investors presented to the Chairman a paper containing suggestions as "grounds for compromise". The paper was made available to all the interest groups.

39. The Group of 77 stated that, having received the suggestions of the pioneer investors almost at the end of the session, it reserved its right to react to them at an appropriate time in the future.

40. These consultations were conducted in a positive and constructive atmosphere. While progress was made, including the identification and clarification of several issues, more time is required for the resolution of the matter. The Consultative Group will resume its discussion of the matter at the beginning of the seventh session of the Preparatory Commission with a view to concluding its consideration of it.

## IV. TRIBUTE TO MOHAMMAD ZIA-UL-HAQ, FORMER PRESIDENT OF THE ISLAMIC REPUBLIC OF PAKISTAN

41. On 18 August 1988, the plenary heard statements made in tribute to the memory of Mohammad Zia-ul-Haq, former President of the Islamic Republic of Pakistan.

## V. SEVENTH SESSION

42. The Preparatory Commission will hold its seventh session at Kingston from 27 February to 23 March 1989. The Commission will decide the duration, dates and venue of its summer meeting at the seventh session.

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Seventh session
Kingston, 27 February - 23 March 1989

## STATEMENT BY THE CHAIRMAN OF THE PREPARATORY COMMISSION

1. During the present session, the plenary dealt with the following matters:

(a) Organization of the work of the Commission;

(b) Preparation of the rules, regulations and procedures relating to the various organs of the Authority;

(c) Implementation of resolution II;

(d) Organization of the future work of the Commission.

### I. ORGANIZATION OF WORK

2. On 27 February 1989 the plenary, on the recommendation of the General Committee, adopted a programme of work for the current session of the Commission which enabled all the Special Commissions and the plenary on the Authority to meet. The programme was adopted on the understanding that changes would be made as circumstances required.

### II. PREPARATION OF THE RULES, REGULATIONS AND PROCEDURES RELATING TO THE VARIOUS ORGANS OF THE AUTHORITY

3. At its seventh session the plenary held thirteen meetings on the Authority.

4. At the first meeting the plenary decided to begin its work with the consideration of a proposal submitted by the delegation of the EEC on the draft rules of procedure of the Assembly and then proceeded with the examination of the matters related to the Finance Committee, the special procedures for the approval of plans of work and the draft Headquarters Agreement.

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5. The plenary devoted two meetings to the consideration of the proposal of the delegation of the EEC contained in document LOS/PCN/WP.46.

6. In the course of the debate the following issues were identified as requiring further attention of the plenary: quorum for opening of meetings and quorum for decisions to be taken; definition of the expression "members present and voting"; consequences of a transfer of competence. Questions were also raised as to whether the provisions contained in the EEC proposal were to be included only in the rules of procedure of the Assembly or of other organs as well and whether the physical presence of the member States of an international organization would be desirable at the time of decision-making on the matters on which competence had been transferred to the organization.

7. It was clear from the debate that, in accordance with the Convention, the vote to be cast by an international organization, party to the Convention, should in no case entail an increase in the number of votes. At the same time one delegation held the view that in cases where competence had been transferred, the vote of the international organization was to be understood as having been cast for its member States and that such an understanding should in some way be reflected. A contrary view was expressed that an international organization would vote on its own behalf and not on the behalf of its member States.

8. With reference to the issue of quorum, a delegation was of the view that certain changes had to be made to rules 53 and 69 of the draft rules of procedure of the Assembly. It indicated that rule 53 could be supplemented with a provision that in the calculation of the quorum for the opening of meetings, international organizations referred to in Annex IX of the Convention, should not be counted. At the same time the situation should be different in rule 69 on the quorum required for decision-making.

9. An oral proposal was made by a delegation suggesting that member States of an international organization be present at the time when the organization would cast its vote. Different opinions and arguments were expressed in this regard. In the summing up of the discussion it was noted that this suggestion should be approached bearing in mind as to how practical it could be.

10. The plenary decided to continue the examination of the proposal submitted by the delegation of the EEC and of all related issues which had been raised at the time of the discussion. The Chairman would undertake consultations before the discussion of this matter would be resumed in the plenary.

11. In considering the matters related to the Finance Committee, the plenary had before it the working paper prepared by the Secretariat and circulated in document LOS/PCN/WP.45. In the course of the discussion the delegations of Belgium, Germany, Federal Republic of, Italy, Japan,

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the Netherlands, and the United Kingdom of Great Britain and Northern Ireland submitted a proposal in document LOS/PCN/WP.48, containing a list of additional functions of the Finance Committee.

12. In the discussion on the issue of the establishment of the Finance Committee, a general trend emerged that both the Assembly and the Council would need the assistance and advisory expertise of a subsidiary organ on financial matters. Some delegations gave preference to the establishment of a single advisory body for the Assembly and the Council, while others felt that there should be two separate financial advisory organs - one subordinate to the Assembly and another to the Council. There were also delegations that held the view that it was only the Council that needed a Finance Committee.

13. As far as the composition of the Finance Committee is concerned, the general view was that the decision taken with regard to the issue of establishment would determine the wording of paragraph 1; paragraph 2 should be deleted as it was redundant and paragraph 3 should be included in the list of hard-core issues.

14. The provisions in the section on nominations were generally viewed as satisfactory. It was decided, however, that paragraphs 2 and 3 of this section should be moved to the section entitled "composition".

15. In reviewing the section on the criteria to be used for election of the members of the Finance Committee, the majority of the delegations spoke in favour of the criterion of "equitable geographical distribution", while some other delegations gave preference to the criterion of "equal geographical distribution". Several delegations held the view that if the criterion of "equitable geographical distribution" should apply, then it should be complemented by a provision stating that each regional group should have at least one representative on the Finance Committee.

16. Several delegations were of the opinion that the criterion of "representation of special interests" contained in this section was important, but the view was expressed that in future discussions a precise meaning for this criterion should be sought.

17. Reference to the representation in the Finance Committee of States with the highest contributions to the administrative budget of the Authority proved to be the most controversial provision of the section. A majority of delegates spoke against its retention emphasizing the lack of any legal basis in the Convention on the Law of the Sea for such a reference. Other delegates took the position that since the States with the highest contributions would bear the main burden of expenses of the Authority, they should have a legitimate right to a substantial representation on the Finance Committee. In their view such a level of representation should remain until the Authority would become self-sufficient.

18. In the opinion of several delegations the section on the election of members of the Finance Committee should be viewed in a broader context, bearing in mind the provisions on functions and decision-making. It was also noted that this section was linked to the issue of the establishment of the Finance Committee.

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19. It was pointed out that the element of efficiency should be included in the section on qualifications for nomination.

20. With regard to the section on the terms of office, it was observed that in preparing the draft rules of procedure of the Finance Committee some provisions contained in this section would require clarification and adjustment.

21. In discussing the section on functions of the Finance Committee most delegations indicated that their remarks were of a preliminary nature and that this section should be subject to thorough consideration in the future. In connection with this section reference was also made to the fact that Resolution I, paragraph 5 (g), of the Conference on the Law of the Sea mandates the Preparatory Commission, to prepare inter alia draft rules and regulations concerning the financial management of the Authority in order to enable the Authority to commence its functions.

22. On the issue of decision-making, the general view was that the Finance Committee, as an advisory organ should be as efficient as possible. Therefore no attempt should be made to insert in its rules provisions that could paralyze the work of the Finance Committee in the future. In this regard attention was drawn to the experience of the relevant United Nations organs which might be helpful in seeking proper procedures for the Finance Committee. In summing up the debate it was indicated that capitalizing on the experience of these organs the idea of consensus by default could be studied. In practice that would mean that there would be no rule on consensus, but in case of disagreement the Finance Committee would be required to submit a report on the views expressed.

23. During the debate a trend emerged to link decision-making procedures to particular functions. It was pointed out by some delegations that some functions might require decisions by consensus, while for others a three-quarters or a two-thirds majority would be appropriate. It appeared also from the discussion that some delegations held the view that certain functions should result in the submission of recommendations by the Finance Committee, while other functions might envisage the submission of reports and studies. The plenary may decide to investigate further these ideas at its next session.

24. Sections on the frequency and place of sessions were considered as generally satisfactory.

25. The discussion of the paper on the Finance Committee showed that representation, functions and decision-making were viewed as three main closely linked elements of the future structure of the Finance Committee.

26. At the current session the plenary had a very brief discussion on the question of special procedures for the approval of plans of work. It was decided that in order to avoid duplication, the rules of procedure of the Legal and Technical Commission should contain a general provision stating that "The Commission shall consider applications for the approval of plans of work in accordance with the Regulations on Prospecting, Exploration and Exploitation of Polymetallic Nodules in the Area." Such draft regulations are now being discussed in Special Commission 3 - see document

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LOS/PCN/SCN.3/WP.6/Rev.1. As far as decision-making procedures for the approval of applications are concerned, it was agreed that they should form part of the rules of procedure of the Legal and Technical Commission. Since decision-making is a hard core issue such procedures will be dealt with in the consultations on the hard core issues.

27. During the latter half of the session the plenary commenced the first reading of the draft agreement between the International Sea-Bed Authority and Jamaica regarding the Headquarters of the International Sea-Bed Authority. In considering this subject the plenary had before it a draft of this agreement prepared by the Secretariat and circulated in document LOS/PCN/WP.47. In order to facilitate the discussion, the delegations were also provided by the Secretariat with a working paper indicating the sources used in drafting the various provisions of the draft Headquarters agreement. This working paper is contained in document LOS/PCN/1989/CRP.31.

28. At the outset of the discussion, the plenary came to an understanding that it should avoid, during the first reading, getting involved in the precise drafting of particular paragraphs, but that it should concentrate on the main issues that might cause difficulties. The opinions expressed would be duly recorded and would be taken into account in preparing a revised version of the Headquarters agreement. On the second reading the plenary would pay more attention to precise wording where required.

29. It was also decided that article 1 of the draft Headquarters agreement, concerning use of terms, would be discussed either in conjunction with particular articles or at the end of the first reading.

30. In the first reading the plenary considered and, taking into account the suggestions made during the discussion, provisionally approved the text of the preamble and articles 2 to 9.

31. During the consideration of article 2, the Secretariat was requested by a delegation to prepare an estimate of the expenditures involved in cases where buildings and necessary equipment were provided by the host country for rent by the Authority and where the Authority would have to construct the buildings and acquire equipment at its own expense. That delegation also felt that it would be useful if the Secretariat could inform the plenary as to how the question on the seat of the Authority in particular the obligation of the future host country to the Authority had been dealt with at the Conference on the Law of the Sea.

32. On the question of the programme of work of the plenary on the Authority at the next session, it was decided that the plenary would continue the first reading of the draft Headquarters agreement and then would resume consideration of the matters related to the Finance Committee. Time permitting, the plenary would proceed to the examination of the draft General Convention/Protocol on the Privileges and Immunities of the Authority. In this connection the Secretariat was requested to prepare a draft text of such an agreement.

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## III. IMPLEMENTATION OF RESOLUTION II

33. Following the registration of the four pioneer investors in 1988, the Chairman of the Preparatory Commission undertook consultations on the implementation of the obligations of the registered pioneer investors and of their certifying States. At the sixth session held in Kingston an informal Consultative Group (Group of 33) was established composed of the representatives of the Group of 77, the Group of registered pioneer investors, the Group of potential applicants, the Eastern European Socialist States, China and the Group of 11 States.

34. At the summer meeting of the Preparatory Commission held in New York in August 1988, the Consultative Group resumed the consideration of the implementation of the obligations and the Chairman of the Commission held informal consultations with the various interest groups. These consultations were conducted in a positive and constructive atmosphere. While progress was made, including the identification and clarification of several issues, more time was required for the resolution of the matter. The discussions were deferred to the seventh session of the Preparatory Commission.

35. In order to help in the identification of certain issues, the Chairman met with the various groups and sought the advice of the groups on his intention to submit in the first week of this session some ideas that could assist the parties concerned in their search for a solution to the problems relating to the implementation of the obligations. Based on the results of preliminary consultations the Chairman submitted on 3 March 1989 his ideas in writing on the discharge of obligations by the registered pioneer investors and their certifying States to all interest groups.

36. After the submission of these ideas the Chairman met with the various interest groups and responded to the clarifications sought by them.

37. The exchange that followed has helped to identify the means whereby the obligations of pioneer investors and their certifying States might be implemented. It is in this sense that the consultations have proven to be very positive. These consultations should be seen as an ongoing process that requires careful consideration at every stage by all delegations concerned and these consultations require time.

38. It also became apparent that certain matters relating to the discharge of obligations such as an agreement on a programme for exploration would require the assistance of a group of technical experts if any progress was to be made in the resolving the issues. Accordingly it is hoped that a group of technical experts will be convened in order that they should prepare an exploration programme for the consideration of the Commission.

39. Having identified the issues and the positions of the various interest groups on these issues, it is expected that the negotiations on this matter will be concluded at the summer meeting of the Commission.

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## IV. ORGANIZATION OF THE FUTURE WORK OF THE PREPARATORY COMMISSION

40. During this session the Chairman held informal consultations with the Chairmen of the regional groups, the Chairmen of the Special Commissions and the Special Representative of the Secretary-General on the organization of the future work of the Preparatory Commission. It was agreed that it was necessary at this stage that the future sessions of the Preparatory Commission should be rationalized through a more focussed work programme. It was concluded that it would help the work of the Preparatory Commission to adopt a target date for the completion of its work. The Chairman suggested therefore that the work of the Special Commissions and of the informal plenary on the Authority should be structured in such a way as to enable it to finish its work in the summer of 1991. In this context the Chairmen of the Special Commissions were each requested to undertake a review of the remaining work of their Commissions and organize appropriate work programmes in order to meet the target date. It was emphasized that this is a tentative and flexible plan. The main object was to ensure that the work of the Preparatory Commission was completed before the entry into force of the Convention, bearing in mind that forty of the required sixty ratification instruments have now been deposited.

41. In order to render the work of the Commission more effective the Chairman raised certain other issues. He stressed the need for punctuality so that the time available for the meetings of the Commission should be fully utilized and also emphasized the need for a more disciplined approach to the work of the Commission. He observed that while the work of the contact groups is fundamental, it was advisable that the allocation of time between the meetings of the contact groups and the meetings of the Special Commissions and the informal plenary should be kept regularly under review to avoid any undue interference with the work of the established organs of the Commission.

42. The Chairman also observed that the Preparatory Commission has reached a stage in its work when it was necessary for the Special Commissions and the Plenary on the Authority to adopt a more result-orientated approach.

43. A meeting of the General Committee was convened upon the request of certain members of the General Committee. At this meeting the question of rationalization of work and the improvement of the method of work was raised. After some preliminary discussions it was agreed that this matter will be taken up by the General Committee at the next meeting of the Preparatory Commission.

## V. THE SUMMER MEETING OF THE PREPARATORY COMMISSION

44. The Preparatory Commission will hold its summer meeting in New York from 14 August to 1 September 1989.

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PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEA-BED AUTHORITY
AND FOR THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA
New York, 14 August-1 September 1989

# STATEMENT BY THE CHAIRMAN OF THE PREPARATORY COMMISSION

1. During the present session, the plenary dealt with the following matters:

(a) Organization of the work of the Commission;

(b) Preparation of draft agreements, rules, regulations and procedures for the Authority;

(c) Consideration and adoption of a Training Programme for the Enterprise;

(d) Implementation of resolution II;

(e) Organization of the future work of the Commission.

## I. ORGANIZATION OF WORK

2. On 14 August 1989, on the recommendation of the General Committee, the plenary adopted a programme of work for the current session of the Commission which enabled all of the special commissions and the plenary on the Authority to meet. The programme was adopted on the understanding that changes would be made as circumstances required.

## II. PREPARATION OF DRAFT AGREEMENTS, RULES, REGULATIONS AND PROCEDURES FOR THE AUTHORITY

3. At the present session, the plenary held eight meetings on the Authority.

4. In accordance with the decision taken during the previous session at Kingston, the plenary continued the first reading of the draft Agreement between the International Sea-Bed Authority and Jamaica regarding the Headquarters of the International Sea-Bed Authority, the text of which had

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been prepared by the Secretariat (LOS/PCN/WP.47). The delegations were also provided with a working paper, circulated in document LOS/PCN/1989/CRP.31, indicating the sources used by the Secretariat in drafting the various provisions of the draft Headquarters Agreement. During the course of the meeting, at the request of several delegations, the Secretariat prepared and circulated another working paper (LOS/PCN/1989/CRP.33) suggesting additional provisions, related to the Enterprise, for inclusion in the draft agreement.

5. Having examined article 1, left pending at the Kingston session, articles 10 to 47 as well as the additional articles proposed in LOS/PCN/1989/CRP.33, the plenary completed at the current meeting the first reading of the draft Headquarters Agreement. Articles 1 (subparagraphs c, d, f, i, k, m, q, t), 12, 14, 16 bis, 18, 18 bis, 19 bis, 19 quater, 22, 25, 26, 33, 38, 39, 40, 43 and 46-49 were provisionally approved without amendments. Articles 1 (subparagraphs a, b, g, h, j, n, o, p, r, u), 10, 11, 13, 15-17, 17 bis, 19, 19 ter, 20, 21, 23, 24, 27-32, 34-37 and 42 were provisionally adopted as orally amended.

6. In considering article 13 on the inviolability of archives, the plenary came to the conclusion that a definition of archives should be added in article 1 of the draft agreement. It was decided that such a definition would follow the text of subparagraph (n) of Section 1 of the 1957 Agreement between the Republic of Austria and the International Atomic Energy Agency regarding the Headquarters of that Organization.

7. In connection with the consideration of article 14 on the immunities and exemptions of the Authority, some delegations expressed the opinion that the Authority should not enjoy immunity from legal process or execution in the event of traffic accidents and with respect to its commercial activities. Therefore, although article 14 was provisionally adopted as originally drafted, it was understood that the plenary would resume its consideration of the matter at a future date.

8. With regard to article 20 on freedom of access and residence, several delegations were of the opinion that the issue of adequate protection had not been satisfactorily covered in the present draft. In approving the article, an understanding was reached that this concern might be dealt with in the articles related to permanent missions.

9. In connection with article 20, a proposal was adopted by the plenary to include after paragraph 1 a new paragraph stating that the provisions of the article should not apply in the case of general interruptions of transportation. The text of the new paragraph would be based on the text of subparagraph (b), section 16, of the Agreement between the United Nations and Jamaica regarding the Headquarters of the United Nations Environment Programme regional unit in that country.

10. In considering article 21 on the establishment of missions, the plenary came to the conclusion that reference to observer States in the article should be further analysed in the light of the outcome of the consultations on the hard-core issue of "observers". While it seemed advisable to consider the

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possibility of the setting up of missions by the observers referred to in articles 156, paragraph 3, and 169 of the Convention, it was noted that some observers who would participate in the work of the Authority might not have the full range of interests that would justify the inclusion of a provision granting them the right to establish missions. It was also decided that all articles of the draft Headquarters Agreement that had been provisionally approved, but which contained provisions on observers, should be subject to review in the light of the final resolution of the issue.

11. With regard to articles 27 and 29 to 33 concerning privileges and immunities, consultations were undertaken by the Chairman with interested delegations. The results were submitted to the plenary and provisionally approved by it at the 7th meeting, held on 29 August 1989.

12. It was decided that article 27 of the present draft on the privileges and immunities of the representatives of States Parties and observer States should be revised on the basis of sections 11-14 of article IV of the 1946 Convention on the Privileges and Immunities of the United Nations. Incorporation in the the draft Headquarters Agreement of the provisions of section 15 of article IV was left pending further consultations. It was felt by many delegations that nationals of Jamaica, working for missions or delegations, while not enjoying privileges and immunities in general, should at the same time be provided immunity for words spoken or written by them in their official capacity and that their official papers should also be inviolable. As a result of the changes adopted with regard to article 27, its third paragraph would be placed as a separate article.

13. In accordance with the decision taken by the plenary, the present article 29 of the draft Agreement will be divided into four articles.

14. The first of the four articles, entitled "Privileges and immunities of officials of the Authority", will reproduce the text of paragraph 3 of the present article 29, as orally amended. The article will include a new subparagraph on immunity from inspection and search of the official effects and baggage of the officials of the Authority. Since one delegation was not in a position at the current session to give its consent to such a text unless it was supplemented by a provision on exception in cases of flagrante delicto, it was agreed that the article would contain two alternative texts of this subparagraph, both in square brackets.

15. Replacement of subparagraph 1 (ii) in the former article 29 by the text of subparagraph 1 (ii), section 19, of the Agreement between the United Nations and Jamaica regarding the UNEP regional unit was provisionally adopted subject to the further consideration of two other proposals. The first proposal would include in the text of this subparagraph a reference to established diplomatic practice. According to the second, the subparagraph should be supplemented by the provision allowing the sale of automobiles in Jamaica free of customs duties three years after their importation.

16. The second of the four articles, entitled "Privileges and immunities of the Secretary-General and other senior officials of the Authority", will reproduce the texts of paragraphs 1 and 2 of the present article 29, as orally amended.

17. The third and fourth articles will be based respectively on paragraphs 4 and 5 of article 29.

18. Article 30 on the "Privileges and immunities of experts" was provisionally adopted on the understanding that, as in the case of article 29, its revised version would contain two alternative texts, in square brackets, of a new subparagraph on immunity from inspection and search of official baggage and effects. Although in subparagraph (c) of article 30 the words "provided they are not nationals of Jamaica" were deleted, one delegation reserved the right to come back to this matter, if necessary, in the future.

19. In article 37 on laissez-passer, the reference to the United Nations was deleted because it was considered difficult at this stage to pre-empt a decision on whether the Authority would issue its own or use the United Nations laissez-passer. This matter will be addressed in the future, when a draft agreement on relations between the Authority and the United Nations comes up for consideration in plenary.

20. Article 38 on social security and pension funds was also provisionally adopted by the plenary on the understanding, to be reflected in an additional footnote, that the question of the participation of the Authority in the United Nations Joint Staff Pension Fund would be resolved later.

21. At the suggestion of the delegation of Jamaica a decision was taken to include, after the present article 40 of the draft Agreement, a new article on the preventive measures that may be taken by the Government of Jamaica to preserve national security without prejudice to the performance of the functions of the Authority. The text of the new article will be based on the text of section 30 of the Agreement between the United Nations and Jamaica regarding the Headquarters of the Regional Co-ordinating Unit of UNEP.

22. Consideration of article 41 on the interpretation of the Agreement was left pending a decision to be taken with regard to article 45.

23. The plenary postponed taking a decision on article 45 regarding the relationship between the Headquarters Agreement and the Protocol on the Privileges and Immunities of the International Sea-Bed Authority until it examined the text of such a Protocol.

24. Since paragraphs (l) and (s) of article 1 on the use of terms were related to the hard-core issue of "observers", those paragraphs were left pending further consultations by the Chairman.

25. The plenary was not able to reach any compromise decision on paragraph (e) of article 1 concerning the definition of the term "headquarters". The Chairman intends to undertake consultations with interested delegations, and in particular with the delegation of the host country, Jamaica, before the plenary reconsiders the matter.

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26. During the current session, consultations were undertaken by the Chairman with interested delegations on matters related to the Finance Committee. Those consultations will resume at the next meeting and are intended to facilitate the preparation by the Secretariat of a revised document on the Finance Committee.

27. At the last meeting of the plenary on the Authority, the Chairman announced a long-term plan of work for the plenary which took into account the target date for the completion of the work suggested by the Chairman during the previous session at Kingston. According to this plan, in 1990 the plenary should complete the consideration of the draft Headquarters Agreement and proceed with the examination of the draft rules of the Finance Committee, the draft Protocol on the Privileges and Immunities of the Authority (LOS/PCN/WP.49) and the draft Staff Rules and Regulations. The Chairman will also undertake informal consultations on hard-core issues. Under the plan, in 1991, the plenary is to consider the draft Agreement on Relations between the Authority and the United Nations, the draft Financial Rules and Regulations of the Authority and any other matters left pending. The Chairman will continue his informal consultations on hard-core issues during that year.

28. On the question of the programme of work of the plenary on the Authority at the next session, it was decided that the plenary would consider the draft Headquarters Agreement between the Authority and Jamaica and try to finalize the text of that Agreement. Accordingly. the Secretariat was requested to prepare a revised version of that document and circulate it before the commencement of the Kingston session. The plenary would also examine the draft rules of the Finance Committee and then proceed with the consideration of the draft Protocol on the Privileges and Immunities of the International Sea-Bed Authority (LOS/PCN/WP.49). With time permitting and under favourable conditions, the Chairman will undertake consultations on certain hard-core issues at the next session.

## III. CONSIDERATION AND ADOPTION OF A TRAINING PROGRAMME FOR THE ENTERPRISE

29. At the 51st meeting of the plenary, the chairman of Special Commission 2 introduced the draft principles, policies, guidelines and procedures for a Preparatory Commission Training Programme (LOS/PCN/SCN.2/L.6/Rev.1). His statement is contained in document LOS/PCN/L.75/Add.1.

30. The plenary adopted the Training Programme detailed in document LOS/PCN/SCN.2/L.6/Rev.1 and the recommendations contained therein will be implemented in consultation with the Chairman of Special Commission 2.

## IV. IMPLEMENTATION OF RESOLUTION II

31. Pursuant to paragraph 38 of the Statement of the Chairman of the Preparatory Commission of 22 March 1989 (LOS/PCN/L.72), the Chairman in inter-sessional consultations with all interest groups was able to obtain an agreed mandate for the meeting of the Group of Technical Experts.

32. The Group of Technical Experts was established in accordance with a decision taken by the Preparatory Commission of the International Sea-Bed Authority and for the Law of the Sea which is embodied in paragraph 6 of the statement of understanding of 5 September 1986 (LOS/PCN/L.41/Rev.1, annex).

33. The Group of Technical Experts was convened to prepare for the consideration of the Preparatory Commission a comprehensive plan for the early stages of exploration of a mine site in the area reserved for the Authority in the central region of the North-East Pacific, indicating the nature of activities to be undertaken, the data and information to be obtained and the costs involved. It was also requested to prepare a comprehensive exploration plan from the first stages of exploration to the stage where a decision for exploration could be taken. If it was not feasible to provide the same level of details and costings for the later stages of exploration, then the Group was required to give the reasons in its report. (See LOS/PCN/108)

34. The Group of Technical Experts met between 7 and 16 August at the United Nations Headquarters and held 12 meetings concerning the exploration plan.

35. In examining its mandate, the Group concluded that the first stages of exploration would in fact form part of a comprehensive exploration plan from the first stages of exploration to the stage where a decision for exploitation could be taken. Accordingly, the Group proceeded to develop a complete plan for all stages of exploration providing such details of activities and costs as could be reasonably provided at this time.

36. The Group proposed an exploration plan providing for two separate stages of work:

"(a) Stage I would identify the prime areas contained in the areas reserved for the Authority in the central region of the North-East Pacific. The work would take about two to three years to complete and would cost approximately $US 7 million-$US 9 million;

(b) As currently envisaged, stage II would entail several years of detailed surveys to identify possible mining sites and would cost in the order of $US 35 million-$US 40 million;

(c) The time and cost particularly of stage II, could vary depending on the results of prior work and advances in exploration technology. The cost estimates provided in the present report were based on information provided by the members of the Group who had experience in this field. The cost estimates were considered reasonable but would be revised as more information and experience were gained." (LOS/PCN/BUR.5)

37. In accordance with paragraph 3 of the mandate the Group of Technical Experts was also requested to assist the Preparatory Commission on matters relating to the training of personnel, taking into account the work done by the ad hoc Working Group on Training in Special Commission 2 (LOS/PCN/SCN.2/L.6/Rev.1).

38. The Group of Technical Experts met on 15 and 16 August and held 4 meetings concerning the training of personnel.

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39. The Group was of the opinion that it could best assist the Preparatory Commission by identifying the priority disciplines for training, the skills required of each trainee and the areas of training in preparation for deep sea-bed mining.

40. The Group was of the view that it could not determine the number of trainees and the duration of training in each discipline on the basis of the information made available to it by the Preparatory Commission. (LOS/PCN/BUR.6)

41. Taking into account the reports of the Group of Technical Experts the Chairman of the Commission resumed informal consultations on the implementation of the obligations with the various interest groups. The Chairman submitted different approaches to the various interest groups in order to identify possible areas of compromise.

42. It was felt that due to the complexities of the issue more time was needed to resolve the matter.

43. In the light of the reports of the Group of Technical Experts and upon consultations with the interest groups, the Chairman submitted to the interested parties a revised version, dated 31 August 1989, of the paper of 3 March 1989. Accordingly, it is the intention of the Chairman to resume the consultations on obligations at the beginning of the 8th session of the Preparatory Commission.

44. At a meeting of the General Committee held on 30 August 1989, the Chairman presented the reports of the Group of Technical Experts, contained in documents LOS/PCN/BUR/R.5 and LOS/PCN/BUR/R.6.

45. During the consideration of the reports the General Committee expressed its gratitude to the Group of Technical Experts for the reports and also expressed its appreciation to the Secretariat staff for their assistance and efforts in facilitating the work of the Group of Technical Experts.

## V. ORGANIZATION OF THE FUTURE WORK OF THE PREPARATORY COMMISSION

46. During this session the Chairman reiterated the suggestion which he had already made at the 1989 Kingston session that the work of the Special Commissions and the informal plenary on the Authority should be structured in such a way as to enable the Commission to finish its work in the summer of 1991. The establishment of this target date was to ensure that the work of the Preparatory Commission was completed before the entry into force of the Convention, bearing in mind that forty-two of the required sixty ratification or accession instruments have now been deposited (LOS/PCN/L.72).

47. It was also agreed that the General Committee will be convened from time to time to consider the organization of the work of the Preparatory Commission and to review its negotiating mechanisms.

## VI. THE EIGHTH SESSION OF THE PREPARATORY COMMISSION

48. The Preparatory Commission will hold its 8th session in Kingston from ... to ...

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# UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

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PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEA-BED AUTHORITY
AND FOR THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA
Eighth session
Kingston, Jamaica
5-30 March 1990

## STATEMENT BY THE CHAIRMAN OF THE PREPARATORY COMMISSION

1. During the session, the plenary dealt with the following matters:

(a) Organization of work;

(b) Preparation of draft agreements, rules, regulations and procedures for the Authority;

(c) Implementation of resolution II;

(d) Adoption of the recommendations of Special Commission 2 on the implementation of the Preparatory Commission Training Programme;

(e) Commemoration of the accession to independence of Namibia.

## I. ORGANIZATION OF WORK

2. On 5 March 1990, upon the recommendation of the General Committee, the plenary adopted a programme of work for the current session of the Commission which enabled all the special commissions and the plenary on the Authority to meet. The programme was adopted on the understanding that changes would be made as circumstances required.

## II. PREPARATION OF DRAFT AGREEMENTS, RULES, REGULATIONS AND PROCEDURES FOR THE AUTHORITY

3. The plenary held 10 meetings on the Authority. During part of the time allocated to the plenary the Chairman held consultations on the following issues: the Finance Committee, the "hard-core issues" of subsidiary organs and observers

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and certain articles left pending during the consideration by the plenary of the draft Headquarters Agreement.

4. The plenary commenced its work with the second reading of the revised draft Agreement between the International Sea-Bed Authority and the Government of Jamaica regarding the Headquarters of the International Sea-Bed Authority, which had been circulated by the Secretariat on 16 February 1990 in document LOS/PCN/WP.47/Rev.1. Subsequently, the plenary proceeded to the consideration of the draft Protocol on the Privileges and Immunities of the International Sea-Bed Authority, contained in document LOS/PCN/WP.49.

5. The plenary devoted six meetings to the second reading of the draft Headquarters Agreement and as a result provisionally approved without amendments the preamble and articles 1, subparagraphs (a); (b); (c); (d); (e); (g); (h); (i); (j); (k); (m); (n); (o); (p); (q); (r); (s); (t); (u), 2, 4, paragraphs 1-6, 5, paragraphs 1-4, 6-8, 9, paragraphs 1-4, 10, 12-17, 19, paragraph 1, 20, 21, 22, paragraph 1, 23-25, 27, paragraphs 1, 2, 3, 5, 28, 29, 31-33, 35, paragraphs 1 and 2, 36, 37, subparagraphs (d); (e); (f); (g); (h), 38, 39, 43, 44, 46, 47, 49, 51, 52, paragraph 1, 53, 54 and 56-59.

6. With reference to article 1 (Use of terms), it was decided that subparagraph (n) should be placed before subparagraph (i).

7. The plenary provisionally adopted as orally amended draft articles 1, subparagraphs (f) and (v), 2, paragraphs 2 and 3, 5, paragraph 5, 11, 19, paragraph 2, 22, paragraph 2, 34 (with the exception of subparagraph (b)), 37, subparagraph (d), 42, 45 and 50.

8. At the beginning of the second reading of the draft Headquarters Agreement, the plenary reached an understanding that articles on which it would be difficult to obtain an agreement in the plenary would be left for the consultations of the Chairman with interested delegations. The articles that were subsequently referred to such consultations are the following: articles 1, paragraph 1, 3, 4, paragraph 7, 9, paragraph 5, 18, 26, 27, paragraphs 4 and 6, 30, 34, subparagraph (b), 35, paragraph 3, 37, subparagraphs (b) and (c), 40, 41, 48, 52, paragraph 2, and 55.

9. The Chairman reported the results of these consultations to the plenary at a meeting held on 29 March 1990. He pointed out that participants in the consultations agreed that article 1, paragraph 1, and article 26, paragraph 5, should remain as presently drafted and articles 3, 18, 27, paragraphs 4 and 6, 37, subparagraph (c), 40 and 52, paragraph 2, should be redrafted in the light of the consultations. It was also recommended that articles 30, 35, paragraph 3, and 41 should be deleted.

10. With reference to article 41, it was pointed out that its deletion would require reconsideration of certain articles on the privileges and immunities in order to determine the provisions where reference to spouses and dependent members of the families should be included. This issue will first be addressed at the level of consultations at the next session and then the results will be brought to

the plenary for approval. To facilitate these consultations, the Secretariat was asked to prepare a list of articles of the Headquarters Agreement that might need modification, indicating in the footnotes precedents which might serve as sources of reference.

11. Due to lack of time it was not possible to complete at the consultations the consideration of articles 4, paragraph 7, 34, subparagraph (b), 37, subparagraph (b), 48 and 55 and they were left pending further discussions at the next session.

12. During the consideration of the draft Headquarters Agreement, several delegations raised the question of the relationship between the Authority and the Enterprise. They held the view that there was some ambiguity in the text of the draft Agreement in that it did not provide a clear answer as to which of its provisions applied to the Enterprise. It was noted that although under the Convention on the Law of the Sea the Enterprise was an organ of the Authority the Enterprise enjoyed a specific status which the draft Agreement itself acknowledged since it contained a separate definition for the Enterprise and a set of articles dealing solely with the Enterprise.

13. In accordance with the decision taken at the summer meeting in New York, the plenary conducted the first reading of the draft Protocol on the Privileges and Immunities of the International Sea-Bed Authority. The text of this instrument, which was prepared by the Secretariat, had been circulated at the end of the previous session in document LOS/PCN/WP.49. In order to facilitate the consideration of the draft Protocol the Secretariat circulated a conference room paper (LOS/PCN/1990/CRP.36) indicating the sources used in drafting various provisions of the Protocol.

14. At the first reading, the plenary approved without amendments the preamble and articles 1, subparagraphs (a); (b); (f); (i); (j); (m), 4-8, 12, 25, 26 and 28. Articles 1, subparagraphs (c); (d); (e); (h); (k); (l), 2, 9, 11, 13-15, 18 (with the exception of paragraph 1 (a) and (b)), 19 (with the exception of paragraph 3 (b)), 20 (with the exception of paragraph 1 (a) and (c)), 24, 27 and 30 were provisionally approved as orally amended.

15. It was decided that a definition of archives similar to the one inserted in the draft Headquarters Agreement should be included in article 1.

16. It is understood that the text of articles 3 (Legal personality of the Authority) and 10 (Legal status of the Enterprise) should be redrafted, taking into account the outcome of the consultations on the analogous provisions in the draft Headquarters Agreement.

17. It was decided that article 19 on the privileges and immunities of the Secretary-General and other officials of the Authority would be divided into three articles similar to what had been done in the case of the draft Headquarters Agreement.

18. The plenary was unable to reach an agreement on articles 1, subparagraph (g), 16, 17, 18, paragraph 1 (a) and (b), 19, paragraph 3 (b), 20, paragraph 1 (a) and (c), 21-23 and 29. The Chairman intends to undertake consultations with respect to these articles.

19. In connection with articles 1, subparagraph (g), 2, 3, 10, 16 and 17, it was pointed out by several delegations that a formula should be found which would ensure that under the text of the Protocol, the Enterprise, because of its specific character, should not enjoy all the privileges and immunities provided for the Authority.

## Informal consultations

### 1. Finance Committee

20. As was indicated in my report on the work of the plenary at the session in New York in August 1989, at the end of that session I began consultations with interested delegations on the matters related to the Finance Committee (LOS/PCN/L.77, para. 26). The consultations undertaken in New York were continued at the eighth session at Kingston.

21. These consultations are intended to provide an opportunity to address in a flexible and informal atmosphere the problems identified by the plenary during the discussion of the working paper on the Finance Committee prepared by the Secretariat (LOS/PCN/WP.45). It was understood that the results of the consultations would be reported to the plenary.

22. The participants in the consultations expressed the view that they were useful and should be continued at the next session in order to provide the Secretariat with sufficient guidance for the preparation of a revised paper on the Finance Committee.

23. Although the consultations so far have been inconclusive, I would like to inform the plenary on the matters discussed and I would also like to share my personal perceptions of the directions in which the consultations have developed and of the means whereby a compromise solution might be sought. These are very preliminary considerations and they neither represent the conclusions reached at the consultations, nor prejudice the position of any State participating in the consultations.

24. It was agreed that the following main issues should be addressed at the consultations: composition of the Finance Committee; status of the Finance Committee with regard to such organs as the Assembly and the Council; functions and decision-making.

25. With regard to the composition, the following three main elements were identified:

(a) Representation of special interests;

(b) Equal/equitable geographical representation;

(c) Representation of highest contributors.

26. It is the view of the Chairman that on the question of composition a compromise solution may lie in acceptance of the fact that until the Authority is self-financed the criterion of major contributors would have to be taken into consideration in establishing the Finance Committee.

27. As far as the status of the Finance Committee with regard to the Assembly and the Council is concerned, it might be stated that the idea of having the Finance Committee as a subsidiary organ to both the Assembly and the Council is receiving growing support. It is understood however that this conclusion could only be reached on the assumption that the Finance Committee will be assigned functions providing for its direct reporting on particular functions either to the Assembly or to the Council.

28. The issue of the appointment of the members of the Finance Committee is closely linked to its status. If the Finance Committee is a subsidiary organ of the Assembly and the Council, the appointment of its members should logically be entrusted to the Council, bearing in mind that the Council itself is elected by the Assembly.

29. Primary attention at the session was focused on the functions of the Finance Committee, which were subjected to careful examination during two meetings.

30. To facilitate the discussions, the Secretariat circulated in document LOS/PCN/1990/CPR.38 a preliminary list of functions of the Committee. It combined the functions included in the working paper on the Finance Committee prepared by the Secretariat (LOS/PCN/WP.45), the functions contained in the working paper submitted by six States in document LOS/PCN/WP.48 as well as some additional functions that had been mentioned during the debate in the plenary. Having considered the list on a preliminary basis, the participants in the consultations agreed that it might be reduced by eliminating some of the functions and combining others. As a result the Secretariat has been provided with the necessary guidance to proceed with the preparation of a revised list of the functions for the next round of consultations.

31. It should be noted that during the consideration of the functions of the Finance Committee the idea emerged that with regard to certain functions the Committee should provide its advice only if requested by the Assembly or the Council, while some other functions would require the Committee to take the initiative in making recommendations without waiting for a specific request. In other words, in some cases the Committee should not intervene unless it is requested to by the principal organs, while in the others, the Assembly or the Council should not proceed with the matter unless they have received advice from the Finance Committee.

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32. Due to lack of time, the exchange of views on decision-making procedures was of a preliminary character. Three options were mentioned on this matter, viz., decisions taken by (a) consensus, (b) various majorities or (c) a combination of both consensus and various majorities. It was the task of the consultations to eliminate some of the options.

33. In the view of the Chairman the consultations indicated that the question of decision-making should be linked to functions. In this respect some delegations were of the view that while some functions might require decision-making by consensus others might require some other decision-making mechanism.

34. It was agreed that all decision-making options referred to in the consultations should be kept in mind for the time being. Discussions on the matter will continue at the next session and an attempt will be made to narrow the gap between the positions. At the same time, the consultations revealed that the decision-making process in the various organs of the Authority was linked and therefore should be addressed at some stage in their complexity, if efforts to resolve them separately for each organ should fail.

## 2. Subsidiary organs and observers

35. In accordance with the programme of work at the session, the Chairman conducted consultations on the so-called hard-core issues of subsidiary organs and observers.

36. On the issue of the subsidiary organs of the Assembly, it was agreed at the suggestion of the Chairman that the Preparatory Commission should not make any recommendations to the Authority with regard to the establishment of subsidiary organs of the Assembly. The only exception could be the Finance Committee if the Preparatory Commission decided to recommend it as a joint subsidiary organ of the Assembly and the Council. Therefore, it should be left to the Assembly to decide in the light of its needs and the particular circumstances what subsidiary organs it might wish to establish.

37. In this connection the Chairman noted that although the Preparatory Commission should make necessary recommendations to the Authority to ensure its proper functioning, there was a general concern with respect to the financial implications involved in recommending a heavy structure for the Authority at the initial stage of its operation. He also pointed out that it would be difficult for the Preparatory Commission to foresee the types of subsidiary organs that the Assembly might require to perform its functions at the different stages of its activities.

38. It must be observed that one delegation held the view that by taking this decision the Preparatory Commission was in effect abdicating its responsibilities. It was pointed out that it would not be realistic to believe that the Assembly, sitting in plenary sessions, would be able to deal effectively with its agenda.

39. As a result of the adoption of the Chairman's proposal, it was recommended that the wording of rule 86 on the establishment of subsidiary organs in the rules of procedure of the Assembly (LOS/PCN/WP.20/Rev.2) should be retained.

40. For the reasons outlined above, the Chairman suggested that, apart from the Finance Committee, no other subsidiary organs should also be recommended for the Council. This proposal having received general acceptance, it was decided that rule 82 on the subsidiary organs in the rules of procedure of the Council (LOS/PCN/WP.26/Rev.2) should be retained with the deletion of the word "other" which had been in square brackets.

41. In introducing the issue of observers the Chairman outlined two types of questions that should be addressed. This first concerned the entities which would be granted observer status. The second was related to the extent and nature of the participation of observers in the work of the Assembly and the Council.

42. With regard to the first question, the participants in the consultations agreed on the list of entities contained in paragraph 1 of rule 93 of the rules of procedure of the Assembly (LOS/PCN/WP.20/Rev.2). As a result paragraph 1 of rule 93 was approved.

43. As far as the nature and extent of observer participation in the work of the Assembly and the Council are concerned, it was clear that at the present stage it would be very difficult to narrow the gap between the various positions. Therefore, this matter was deferred to a later stage. There was however a perception among participants in the consultations that the issue of the status of observers should not be dealt with in a manner which could be construed as a disincentive for States to ratify or accede to the Convention. There was also broad agreement on the need to make efforts to promote the universal character of the Convention.

44. On the question of the programme of work of the plenary on the Authority, it was decided that at the next meeting the plenary would undertake a second reading of the draft Protocol on the Privileges and Immunities of the Authority. The Secretariat was requested in this regard to prepare in advance of the meeting a revised version of this instrument. Subsequently, the plenary would proceed with the examination of the draft Agreement concerning the relationship between the International Sea-Bed Authority and the United Nations. A draft of this document will be circulated by the Secretariat for the next session. The Chairman intends to continue his consultations on the draft Headquarters Agreement, on issues related to the Finance Committee and on certain "hard-core issues", in particular decision-making.

45. The Secretariat is in the process of preparing a study on the potential financial implications for States parties to the United Nations Convention on the Law of the Sea, taking specially into account the necessity for economy, and for minimizing the financial burden of States parties, consistent with the current situation.

## III. IMPLEMENTATION OF RESOLUTION II

46. The Chairman resumed consultations on the modalities for the implementation of the obligations of the registered pioneer investors during the session. The issue was extensively discussed and substantial progress was made. Due to lack of time, a final conclusion could not be reached. There was agreement among the interested parties that the consultations should resume at the very beginning of the summer meeting in New York, with a view to reaching a final agreement during that meeting.

47. It was also agreed that the framework within which the resumption of the consultations would take place should be constituted by the revised paper of August 1989 presented by the Chairman on the discharge of the obligations by the pioneer investors, by the written response of the pioneer investors to the Chairman's revised paper handed over to the Chairman of the Preparatory Commission and to members of the Group of 16 of the Group of 77 on 27 March 1990 as well as by some ideas that were introduced into the negotiations during the session between members of the Group of 4 and members of the Group of 16 on 28 March 1990. It was also agreed that no new elements should be introduced into this framework. The Chairman added that it was his own impression that the gap between the main proponents had been considerably narrowed and that there was a substantial area of agreement on most issues. He stated that consultations would resume from where they had been left at the session.

## IV. ADOPTION OF THE RECOMMENDATIONS OF SPECIAL COMMISSION 2 ON THE IMPLEMENTATION OF THE PREPARATORY COMMISSION TRAINING PROGRAMME

48. At the 55th meeting of the plenary, the Chairman of Special Commission 2 introduced the recommendations of Special Commission 2 on the implementation of the Preparatory Commission Training Programme, as contained in document LOS/PCN/SCN.2/L.7. The recommendations were subsequently adopted by the plenary.

## V. COMMEMORATION OF THE ACCESSION TO INDEPENDENCE OF NAMIBIA

49. At a formal session of the plenary held on 21 March 1990, the Preparatory Commission commemorated the accession to independence of Namibia. The plenary heard statements by the Chairman of the Preparatory Commission and the Special Representative of the Secretary-General for the Law of the Sea. Statements were also made by the Chairmen of the regional groups, by the Chairman of the Group of 77 and a number of delegations.

## VI. OTHER MATTERS

50. During the session the importance of the momentous issue of the protection and preservation of the marine environment was highlighted. It was suggested that the Preparatory Commission should in its task of regulating sea-bed activities follow

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closely the world-wide developments in this field, taking especially into account the upcoming United Nations Conference on Environment and Development to be held in 1992.

## VII. SUMMER MEETING OF THE PREPARATORY COMMISSION

51. The Preparatory Commission will hold its summer meeting in New York from 13 to 31 August 1990.

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INTERNATIONAL SEA-BED AUTHORITY
AND FOR THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA
New York, 13-31 August 1990

## STATEMENT BY THE CHAIRMAN OF THE PREPARATORY COMMISSION

1. During the present session, the plenary dealt with the following matters:

(a) Organization of work;

(b) Preparation of draft agreements, rules, regulations and procedures for the Authority;

(c) Implementation of resolution II.

### I. ORGANIZATION OF WORK

2. On 13 August 1990, on the recommendation of the General Committee, the plenary adopted a programme of work for the current session of the Commission which enabled all the special commissions and the plenary on the Authority to meet. The programme was adopted on the understanding that changes would be made as circumstances required.

### II. PREPARATION OF DRAFT AGREEMENTS, RULES, REGULATIONS AND PROCEDURES FOR THE AUTHORITY

3. At the meeting held on 14 August 1990, the Chairman outlined his plan for the organization of the work of the plenary on the Authority at the current session. It was subsequently circulated in document LOS/PCN/1990/CRP.41. As in the past, the proposed programme of work envisaged that part of the time allocated to the plenary would be devoted to the consultations of the Chairman with the interested delegations on such issues as functions, composition and decision-making of the Finance Committee, the "hard-core issue" of decision-making in general and the articles which had been left pending during the consideration by the plenary of the draft Headquarters Agreement and the draft Protocol on the Privileges and Immunities of the International Sea-Bed Authority.

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4. At the current session the plenary commenced its work with the second reading of the draft Protocol on the Privileges and Immunities of the International Sea-Bed Authority, a revised text of which had been circulated by the Secretariat on 26 June 1990 in document LOS/PCN/WP.49/Rev.1.

5. The plenary devoted two meetings to the examination of the draft Protocol and as a result provisionally approved without amendments the preamble, except for the second paragraph, and articles 1, subparagraphs (a), (b), (c), (f), (g), (i), (j), (k), (l), (m), (n); 4; 5; 6; 7, paragraphs 1 and 3; 8; 9, paragraphs 1, 2 and 4; 11; 12; 14; 15; 16; 17, paragraph 1 (c), (d), (e), (f), (h), (i); paragraphs 2, 3, 4; 18, paragraph 1 and 2, subparagraphs 2 (c), (d), (e), (g); 21, paragraph 1 (c), (d), (e), (g), (h), and paragraph 2; 22-27; 29-31.

6. The plenary provisionally adopted as orally amended the second paragraph of the preamble and draft articles 1, subparagraph (h); 9, paragraph 3; 17, paragraph 1 (a); 18, title, paragraph 2 (a) and (h); 19, title; and article 21, paragraph 1 (a).

7. It was decided that article 7, paragraph 2, and article 28 should be deleted.

8. Article 17, paragraph 4, was approved on the understanding that under its provisions a State is not prohibited from providing to its nationals the privileges and immunities referred to in paragraphs 1 and 2 of the same article.

9. The plenary could not reach an agreement on the text of articles 1, subparagraphs (d) and (e); 3; 10; 13; 17, paragraph 1 (b) and (g); 18, paragraph 2 (b); 20; 21, paragraph 1 (b) and (f). Those articles were referred to the consultations to be undertaken by the Chairman with the interested delegations at the next session.

10. It should be noted that although articles 3 (Legal personality and capacity of the Authority) and 10 (Legal capacity of the Enterprise) are listed as pending, the texts of similar articles in the draft Headquarters Agreement have already been discussed at the level of consultations and subsequently approved by the plenary. Therefore articles 3 and 10 would probably be drafted as suggested and provisionally adopted as in the case of the Headquarters Agreement.

11. As indicated above, article 1, subparagraphs (d) and (e), will be considered at the consultations. At the same time the plenary has already decided that their order should be reversed and subparagraph (e) should be placed before subparagraph (d).

12. In accordance with the programme of work, the Chairman continued the consultations with the interested delegations on the pending articles of the draft Agreement between the International Sea-Bed Authority and the Government of Jamaica regarding the Headquarters of the International Sea-Bed Authority (draft Headquarters Agreement). To facilitate the determination of the provisions in the articles on the privileges and immunities, where reference to spouses and dependent members of the families should be included, the Secretariat circulated document LOS/PCN/1990/CRP.39 containing precedents of such provisions in some other headquarters agreements.

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13. Having held three meetings, the participants in the consultations successfully resolved almost all difficulties remaining with regard to the draft Headquarters Agreement.

14. On 24 August 1990, the Chairman submitted to the plenary for its approval a package of articles of the draft Headquarters Agreement referred to the consultations, with the exception of articles 33, 34 and 37, the text of which has not yet been finalized.

15. The plenary endorsed the outcome of the consultations as reported by the Chairman. It was decided that articles 1, subparagraph (1); 4, paragraph 7; 9, paragraph 5; 26, paragraph 1; and 48 should remain as drafted in the revised text of the draft Headquarters Agreement (LOS/PCN/WP.47/Rev.1).

16. It was noted that with regard to article 4, paragraph 7, a suggestion was made to include the words "or in the rules of the Authority". Those words were not incorporated into the text because it was understood that the approval of plans of work and contractual arrangements falling under the Mining Code would be regulated by the United Nations Convention of the Law of the Sea itself.

17. Article 48 was approved on the understanding that it should be seen as reflecting the need for giving a certain flexibility to the Government in taking security measures. It was agreed that the article implied that whenever any measures were to be taken there should be consultations between the Authority and the Government of the host country with regard to such measures.

18. The plenary accepted the proposal to delete from the text of the draft Headquarters Agreements articles 30, 35, paragraph 3, 41 and 50.

19. Article 30 was deleted on the understanding that the Government of Jamaica would do its best to assist missions and their members, in accordance with the established international practice, in obtaining suitable premises and accommodations.

20. The plenary provisionally approved articles 3; 18, subparagraph (c); 27, paragraphs 4 and 6; 34, subparagraph (b); 37, subparagraphs (b) and (c); 40, paragraph 1; and 52, paragraph 2, with the amendments suggested by the participants in the consultations.

21. No decision was taken on article 55 concerning the relationship between the Headquarters Agreement and the Protocol on the Privileges and Immunities of the International Sea-Bed Authority, pending the outcome of the consultations to be undertaken by the Chairman at the next session on some of the articles of that Protocol.

22. As far as articles 33, 34 and 37 are concerned, the Chairman informed the plenary that consultations were still continuing on the provisions of those articles relating to the privileges and immunities of spouses and dependent members of their families. Therefore, depending on the success of the consultations, those provisions would be submitted for approval by the plenary at the next session at Kingston.

23. In the course of the current session, the Chairman continued his consultations with interested delegations on matters of concern to the Finance Committee. Three main issues, namely functions, composition and decision-making, which had been discussed in the past, remained as agenda items of the consultations.

24. As had been requested in Kingston, the Secretariat, in order to assist further discussions, prepared and circulated a revised "Preliminary list of functions of the Finance Committee" (LOS/PCN/1990/CRP.38/Rev.1), which had been drafted taking into account the opinions expressed by the participants in the consultations at the previous session.

25. The Chairman is pleased to report that during the consultations some progress has been achieved on the issues of the functions and composition of the Finance Committee.

26. A revised list of functions received a very careful and thorough examination at the current session. Although concern was expressed with regard to a few specific functions, there was substantial agreement on most of the functions outlined in the list.

27. The view was expressed, for example, that function No. 3 should be understood as having been drafted without prejudice to the fact that the Finance Committee is a subsidiary organ to both the Assembly and the Council.

28. With reference to function No. 8, it was noted that its text lacks precision and therefore should be improved taking into account some of the ideas expressed in Kingston with regard to functions Nos. 10 and 17 of the previous list (LOS/PCN/1990/CRP.38).

29. In relation to the deletion of former function No. 7, some of the participants were of the view that it should be reinstated. It was observed at the same time that since the approval of plans of work falls under the purview of the Legal and Technical Commission the inclusion of this function could result in the conflict of jurisdiction between these two subsidiary organs. The opinion was expressed that this could be avoided if, on the matters referred to in the former function No. 7, the Finance Committee would submit its recommendations to the Legal and Technical Commission instead of to the Council. The participants in the consultations decided to include, for the time being, a footnote to the list of functions of the Finance Committee stating that once the procedures for the approval of plans of work have been clarified, this matter should be reviewed once again in the light of all opinions expressed during the consultations.

30. With regard to the composition, no new elements were suggested. Therefore, the future discussions will continue to evolve around the three elements which have already been identified and referred to in paragraph 25 of the Chairman's report on the work of the Preparatory Commission at the eighth session (LOS/PCN/L.82/Rev.1). These elements are the following: representation of special interests; equitable geographical representation; and representation of highest contributors. It was understood that the criterion of the highest contributors could be relevant only

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until the Authority became self-financed. The demand to keep a reference to equal representation was dropped at the current session. However, the participants concerned reserved the right to return to it depending on how other issues were resolved.

31. On the question of decision-making in the Finance Committee, it was concluded that since it was closely linked to the decision-making procedures in other organs of the Authority. The question should be dealt with at the consultations, where the hard-core issue of decision-making would be addressed in its entirety.

32. As agreed at the previous session, the consultations of the Chairman with the interested delegations on "hard-core issues" were devoted at the current session to decision-making procedures. It appears from the discussion that an agreement should be sought by trying to approach the decision-making procedures, both established and to be established, in various organs of the Authority altogether. It appears that in order to facilitate a compromise on the issue of decision-making delegations may wish to consider the issue in the light of the results to be obtained from consultations on the composition of the organs of the Authority. Therefore, the issues of decision-making and composition should be tackled together in the future.

33. At the end of the session, at a meeting of the plenary held on 28 August 1990, the Special Representative of the Secretary-General for the Law of the Sea, Mr. Satya N. Nandan, introduced a paper on "Administrative arrangements, structure and financial implications of the International Sea-Bed Authority" (LOS/PCN/WP.51), prepared by the Secretariat. The plenary had a very preliminary exchange of views on the paper, which will be the subject of consideration at the next session.

34. On the same date, the "Draft Agreement concerning the Relationship between the United Nations and the International Sea-Bed Authority" (LOS/PCN/WP.50) was introduced by the Executive Secretary of the Preparatory Commission, Mr. L. Dolliver M. Nelson. Having heard several general comments with regard to the draft relationship agreement, the plenary decided to start its article-by-article examination at the session to be held at Kingston in 1991.

35. On the question of the programme of work of the plenary on the Authority, it was decided that at the next session the plenary would undertake a first reading of the draft Agreement concerning the Relationship between the United Nations and the International Sea-Bed Authority and the paper on "Administrative arrangements, structure and financial implications of the International Sea-Bed Authority". The Chairman will also continue his consultations on the articles left pending during the consideration of the draft Protocol on the Privileges and Immunities of the International Sea-Bed Authority and the draft Headquarters Agreement, as well as the issues relating to the Finance Committee and on the hard-core issue of decision-making.

## III. IMPLEMENTATION OF RESOLUTION II

36. On 22 August 1990, the Preparatory Commission received an application from China (see LOS/PCN/113) on behalf of the China Ocean Mineral Resources Research and Development Association (COMRA) for registration as a pioneer investor under resolution II of the Third United Nations Conference on the Law of the Sea and document LOS/PCN/L.41/Rev.1, annex.

37. Pursuant to rule 14, paragraph 3, of the rules of procedure of the Preparatory Commission which stipulates that the General Committee shall act on behalf of the Preparatory Commission as the executive organ for the implementation of resolution II of the Third United Nations Conference on the Law of the Sea, the General Committee met on 30 August 1990 and decided:

> "1. To convene a meeting of the Group of Technical Experts to examine and report to the General Committee on said application, in accordance with the provisions of document LOS/PCN/L.41/Rev.1 of 5 September 1986, for a period not exceeding one week from 10 to 14 December 1990 in New York;
>
> "2. To authorize the Secretary-General to pay the travel costs and per diem of the members of the Group of Technical Experts and other incidental expenditures related to the processing and registration of the application out of the special account established for the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea from the registration fees paid by the pioneer investors. The expenditures incurred for the registration of the application submitted by China are to be charged against the fees to be paid by China for such registration as required under resolution II".

38. The General Committee of the Preparatory Commission will be convened during its ninth session to be held at Kingston, in February-March 1991 in order to consider the application for registration as a pioneer investor submitted by China, taking into account the report and the recommendations of the Group of Technical Experts (LOS/PCN/1990/CRP.43).

39. As had been agreed, during the current session the Chairman resumed consultations on the modalities for the implementation of the obligations of the registered pioneer investors. These consultations, which had been initiated at the sixth session of the Preparatory Commission at Kingston in 1988 and which had required intense negotiations and a great deal of innovative effort as well as a spirit of compromise and understanding on the part of all participants, finally reached a successful conclusion. The General Committee, on behalf of the Preparatory Commission unanimously adopted on 30 August 1990 the Understanding on the Fulfilment of Obligations by the Registered Pioneer Investors and their Certifying States (contained in the annex to the present report).

40. On the adoption of that Understanding, the Chairman made the following statement:

"(a) Should any agreement be made which would affect in any way this Understanding, such adjustments as may be necessary shall be made to it;

"(b) The required date for the submission of a plan of work by each registered pioneer investor under resolution II, paragraph 8 (a), shall be reviewed in the light of the assessment of the Group of Technical Experts in accordance with paragraph 12 of the Understanding."

41. I should add that this matter was also examined against the background of the report of the Group of Technical Experts (LOS/PCN/BUR/R.5), and the uncertainty regarding the commencement of commercial production of minerals from the deep sea-bed due to market conditions, development of technology and the need to protect the marine environment.

42. In accordance with paragraph 22 of LOS/PCN/L.41/Rev.1, annex, the statement mentioned in paragraph 40 above applies *mutatis mutandis* to the potential applicants.

## IV. NINTH SESSION OF THE PREPARATORY COMMISSION

43. The Preparatory Commission will hold its ninth session at Kingston from 25 February to 22 March 1991.

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## Annex

## UNDERSTANDING ON THE FULFILMENT OF OBLIGATIONS BY THE REGISTERED PIONEER INVESTORS AND THEIR CERTIFYING STATES

1. This understanding applies to the four registered pioneer investors, namely, the Government of the Republic of India, the Institut Français de Recherche pour l'Exploitation de la Mer (INFREMER), the Deep Ocean Resources Development Co. Ltd. (DORD), and the Soviet State enterprise Yuzhmorgeologiya, and to their respective certifying States, namely, India, France, Japan and the Union of Soviet Socialist Republics.

2. The four pioneer investors shall provide training pursuant to paragraph 12 (a) (ii) of resolution II in conformity with the specific programme for training approved by the Preparatory Commission in accordance with the Principles, Policies and Guidelines contained in documents LOS/PCN/SCN.2/L.6/Rev.1 and LOS/PCN/SCN.2/L.7 and taking into account the report contained in document LOS/PCN/BUR/R.6. It is agreed that the cost of such training shall be borne by the four registered pioneer investors and shall be free of cost to the Preparatory Commission. The precise number of trainees, the duration and the fields of training shall be agreed upon between the Preparatory Commission and each registered pioneer investor according to its capabilities. It is further agreed that the first group of trainees shall consist of no less than 12 individuals.

3. In accordance with paragraph 12 (a) (iii) of resolution II, the four registered pioneer investors undertake to perform the obligations prescribed in the Convention relating to the transfer of technology, and further agree that training in the use of all available technology shall constitute a substantial component of the training programme referred to in paragraph 2 above.

4. The periodic expenditures for exploration to be incurred in accordance with paragraph 7 (c) of resolution II by the four registered pioneer investors in respect of the development of their respective pioneer areas shall be determined by the Preparatory Commission in consultation with and with the co-operation of each registered pioneer investor within 12 months of the adoption of this understanding. Such expenditures shall be reviewed by the Preparatory Commission from time to time in consultation with and with the co-operation of the registered pioneer investor concerned.

5. Each of the four certifying States agrees to provide, in accordance with article 12 (b) (ii) of resolution II, periodic reports to the Commission on the pioneer activities as defined in paragraph 1 (b) of resolution II, carried out by it or by its entities or natural or juridical persons in their respective pioneer areas. Such reports shall be provided annually.

6. The Commission recognizes that the obligation of each certifying State under paragraph 12 (b) (i) of resolution II is to be implemented upon entry into force for that State of the 1982 United Nations Convention on the Law of the Sea.

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7. Regarding paragraph 14 of the statement on the implementation of resolution II (LOS/PCN/L.41/Rev.1, annex), and taking into account the plan for exploration prepared by the Group of Technical Experts (LOS/PCN/BUR/R.5) for one mine site in the areas reserved for the Authority, the three registered pioneer investors whose pioneer areas are located in the North-East Pacific (France, Japan and the Soviet Union) shall undertake in respect of the areas specified in the plan for exploration referred to above the following activities:

(a) Preparatory work in accordance with paragraphs 9 to 15 of LOS/PCN/BUR/R.5;

(b) Stage I of the plan for exploration in accordance with paragraphs 25 to 35 of LOS/PCN/BUR/R.5.

8. (a) The preparatory work referred to in paragraph 7 of this understanding shall begin to be implemented no later than six months following the adoption of this understanding and shall be completed in accordance with paragraph 15 of LOS/PCN/BUR/R.5. Upon completion of the preparatory work the results shall be submitted to the Preparatory Commission;

(b) The work for stage I of the plan for exploration shall begin to be implemented no later than the end of the second fiscal year after the completion of the review of the results of the preparatory work by the Group of Technical Experts in accordance with paragraph 17 of LOS/PCN/BUR/R.5, and shall be completed within three years of the commencement of that stage in accordance with paragraph 34 of document LOS/PCN/BUR/R.5;

(c) The cost of the preparatory work and stage I of the plan of exploration shall be borne by the three registered pioneer investors and shall be free of cost to the Preparatory Commission.

9. As regards the implementation of stage II of the exploration plan (LOS/PCN/BUR/R.5) for the area reserved for the Authority by the three pioneer investors, it is the understanding that this will be agreed upon following the completion of stage I and the review of the results obtained, and taking into account the decision of any pioneer investor to undertake stage II of the plan of exploration in the areas allocated to it. The terms and conditions for such further exploration shall be agreed upon in accordance with resolution II, paragraph 12 (a) (i).

10. Provided that the obligations under paragraphs 2, 7 and 8 above have been satisfactorily complied with, the obligations of the three registered pioneer investors, France, Japan and the Soviet Union, under resolution II, paragraph 7 (b), to pay $US 1 million per annum shall upon the completion of stage I of the exploration plan be waived as of the date of their registration.

11. India, which has its pioneer area in the South Central Indian Ocean, will undertake, if so requested by the Preparatory Commission, a programme of exploration in accordance with the provisions of resolution II, paragraph 12 (a) (i), of one mine site for the Enterprise in the area reserved for the Authority in the Indian Ocean and, as part of the overall understanding

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contained in the present document, the obligation of India under the provisions of paragraph 7 (b) of resolution II shall be waived as of the date of its registration.

12. Within three months of the deposit of the sixtieth instrument of ratification or accession, the Group of Technical Experts established in accordance with paragraph 6 of document LOS/PCN/L.41/Rev.1, annex, shall review the state of the deep sea-bed mining and make an assessment of the time when commercial production may be expected to commence. If, as a result of the review and the assessment, the Group of Technical Experts concludes that commercial production will not take place for an extended period of time, the Preparatory Commission shall recommend to the Authority that the annual fixed fee payable under annex III, article 13, paragraph 3, be waived for a relevant period.

13. Each registered pioneer investor participating in the activities under paragraph 7 of the present understanding shall submit a comprehensive annual report to the Preparatory Commission on the type and extent of activities undertaken by it and details of expenditures incurred during that year, as well as a list of data and information, gathered as a result of these activities.

14. The details of the data and information gathered as a result of the exploration activities under paragraph 7 of this understanding and the analysis thereof by the registered pioneer investors shall be deposited for safe-keeping with the Secretary-General of the United Nations on a regular basis. Such data, information and analysis shall be presented for review and evaluation to a group of technical experts to be convened by the Preparatory Commission, in the manner specified in paragraph 6 of LOS/PCN/L.41/Rev.1, annex, except that the expenses associated with the meetings of the experts (e.g., travel, per diem and cost of miscellaneous supplies required for the work of the group) shall be paid from the registration fees received by the Preparatory Commission from the registered pioneer investors. The group of technical experts shall be convened upon the completion of the preparatory work referred to in paragraphs 9 to 17 of document LOS/PCN/BUR/R.5 and thereafter as required by the Preparatory Commission to undertake the technical review under the plan of exploration referred to above. The group of technical experts shall submit a report to the Preparatory Commission on the compliance by each registered pioneer investor with the terms of this understanding.

15. In accordance with resolution II, paragraph 7 (b), the Authority shall take into account the provisions of this understanding when negotiating the financial terms of contract and make adjustments in the financial arrangements with each registered pioneer investor, as appropriate. In doing so, the Authority shall take into consideration the early registration and satisfactory performance by each of the four registered pioneer investors of their respective obligations hereunder.

16. Paragraphs 7 and 8 of this understanding are without prejudice to the provisions of paragraph 12 (a) (i) of resolution II.

17. Taking into account paragraph 19 (e) of the statement on the implementation of resolution II (LOS/PCN/L.41/Rev.1, annex), the Preparatory Commission or the Authority shall enter into arrangements similar to those contained in this understanding with any other registered pioneer investor or applicant.

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PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEA-BED AUTHORITY
AND FOR THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA
Ninth session
Kingston, Jamaica
25 February-22 March 1991

## STATEMENT BY THE CHAIRMAN OF THE PREPARATORY COMMISSION

1. During this session, the Plenary dealt with the following matters:

(a) Organization of work;

(b) Preparation of draft agreements, rules, regulations and procedures for the Authority;

(c) Implementation of resolution II;

(d) Election of officers of the Preparatory Commission;

(e) The Training Panel;

(f) The future work of the Preparatory Commission.

### I. ORGANIZATION OF WORK

2. On 25 February 1991, on the recommendation of the General Committee, the Plenary adopted a programme of work for the current session of the Commission which enabled all the special commissions and the Plenary on the Authority to meet. The programme was adopted on the understanding that changes would be made as circumstances required.

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## II. PREPARATION OF DRAFT AGREEMENTS, RULES, REGULATIONS AND PROCEDURES FOR THE AUTHORITY

3. At its first meeting held on 26 February 1991, the Chairman outlined the programme of work of the Plenary on the Authority for the current session. According to this programme, the Plenary was to start its work with the consideration of the draft Agreement concerning the Relationship between the United Nations and the International Sea-Bed Authority (LOS/PCN/WP.50) and then proceed with the examination of the Working Paper on Administrative Arrangements, Structure and Financial Implications of the International Sea-Bed Authority (LOS/PCN/WP.51). The Plenary was also supposed to finalize at this session the text of the draft Agreement between the International Sea-Bed Authority and the Government of Jamaica regarding the Headquarters of the International Sea-Bed Authority and the draft Protocol on the Privileges and Immunities of the International Sea-Bed Authority. For the convenience of delegations, the programme of work of the Plenary on the Authority was circulated in document LOS/PCN/1991/CRP.49.

4. In accordance with the programme of work, the Plenary commenced its work with the first reading of the draft Agreement concerning the Relationship between the United Nations and the International Sea-Bed Authority. The text of this agreement, which was prepared by the Secretariat, was circulated in document LOS/PCN/WP.50. At the beginning of the discussion, at the request of the delegates, the Executive Secretary of the Preparatory Commission, Mr. L. Dolliver M. Nelson repeated his statement made at the previous session, introducing this document. His statement was subsequently circulated in document LOS/PCN/1991/CRP.48. To facilitate the deliberations, the Secretariat also submitted a document on the sources of the provisions of the draft relationship agreement (LOS/PCN/1991/CRP.46).

5. The Plenary devoted five meetings to the examination of the draft agreement, during which it completed the first reading of the agreement. The Secretariat was asked to prepare for the next session of the Preparatory Commission a revised version of the relationship agreement, taking into account the views expressed by delegations during the debate.

6. Having examined the draft Agreement, the Plenary concluded that the following provisions of its text did not require any modifications: article 1; article 2, paragraphs 1 and 4; articles 5, 6, 8, and 10; article 11, paragraph 5; article 12, paragraphs 4 and 5; article 15, paragraph 5; and article 21.

7. It was decided that article 2, paragraph 3, and article 7 should be deleted.

8. Many provisions of the draft relationship agreement were extensively discussed. Several proposals were introduced to the text of these articles. The Plenary did not provisionally approve, during the first reading, any of such articles. However, it reached a certain understanding as to how they should be modified. The Secretariat was requested to reflect the proposed changes in the revised text of the relationship agreement. These provisions are the following: article 2, paragraph 2; article 3; article 11, paragraphs 1-4; article 12, paragraphs 1-3 and 6; article 13; article 14; article 15, paragraph 1; and articles 16, 20, 22 and 23.

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9. As far as article 4 on assistance to the Security Council is concerned, the following three trends developed during the debate:

(a) To delete the article;

(b) To maintain the article as drafted due to the specific nature of the Security Council entrusted with the important task of maintaining international peace and security;

(c) To change the article by extending its provisions to other organs of the United Nations, in particular the General Assembly.

10. Since the debate on article 4 was inconclusive, the article was left in abeyance until the second reading.

11. Consideration of article 9, relating to reciprocal representation, was also postponed. It was felt that this article was closely linked to the "hard-core issue" of observers, which still remained to be resolved. In the course of the discussion of this article, a question was raised as to whether the United Nations representatives should be accorded preferential rights vis-a-vis the members of the Authority as far as attending the meetings of the Legal and Technical Commission and the Economic Planning Commission is concerned. The Chairman stated that he would deal with the question of United Nations representation at the meetings of the organs of the Authority in his consultations on the issue of observers.

12. With regard to article 11, paragraph 2 concerning exchange of information, data and documents, a question was raised as to whether the Authority, in the light of article 4 on assistance to the Security Council, could assume the obligation to provide to the latter, at its request, confidential information received from the members of the Authority. No definite decision was taken on this matter and the Plenary will resume its consideration at the next session. At the same time, it was noted that if an exception should be made in the case of the Security Council, the agreement concerning the relationship between the United Nations and the Authority should contain a provision clearly stating that the Security Council should respect the confidentiality of the information provided to it.

13. Articles 17 ("Personnel arrangements"), 18 ("Budgetary and financial matters") and 19 ("Financing of special services") were left in abeyance on account of their close link to Working Paper 51, the consideration of which, as stated below, was postponed.

14. The Plenary accepted the amendments to articles 33, 34 and 37 of the draft Agreement between the International Sea-Bed Authority and the Government of Jamaica regarding the Headquarters of the International Sea-Bed Authority which had been approved in informal consultations. The Plenary also accepted the amendments to articles 1, 2, 3, 17, and 20 of the draft Protocol on the Privileges and Immunities of the International Sea-Bed Authority which had been approved in informal consultations.

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15. At the current session the Plenary resumed its consideration of the Working Paper on "Administrative Arrangements Structure and Financial Implications of the International Sea-Bed Authority", introduced by the Special Representative of the Secretary-General for the Law of the Sea, Mr. Satya N. Nandan, on 28 August 1990 at the session of the Preparatory Commission held in New York. This Working Paper was circulated by the Secretariat in document LOS/PCN/WP.21. The Plenary first held a general exchange of views on the document.

16. In the course of the general discussion, it was emphasized that the Authority should be both efficient and cost-effective and that any future relationship arrangement should preserve the autonomous character of the Authority. It was pointed out that the Authority should have adequate means to fulfil its functions. It was suggested that the structure of the Secretariat of the Authority should reflect the concerns for efficiency and cost effectiveness, taking into account the functions that the Authority will be called upon to perform in the initial stages.

17. An opinion was expressed that future consideration of the administrative and financial arrangements might require further information from the Secretariat concerning some of the costs referred to in Working Paper 51, as well as the financial implications and possible additional workload for the United Nations, should the Authority be linked to it.

18. At a meeting on 11 March 1991, the Special Representative of the Secretary-General for the Law of the Sea, Mr. Satya N. Nandan, replied to some of the questions raised by delegates and provided background information on particular aspects of Working Paper 51. He pointed out that Working Paper 51 contained suggestions aimed at facilitating the consideration of the subject matter.

19. At the same meeting the Plenary also had a brief discussion of Section "C" of Working Paper 51, entitled "Functions of the institution in the initial period".

20. The Chairman summarized the results of the preliminary consideration of Working Paper 51 at this session. It appeared from the debate that there was general agreement with regard to two elements: first, that the Authority should be efficient, cost-effective and, second, that its size and structure should meet the needs of the Authority during the initial period. He pointed out that there were different ways to achieve these goals. Working Paper 51 submitted by the Secretariat suggests two approaches and they will remain on the table for further discussions. The Chairman stressed that it appeared from the debate that, whatever approach was chosen, including the one providing for a link with the United Nations, it should preserve the autonomous nature of the Authority.

21. On the question of the programme of work of the Plenary on the Authority, it was decided that the Plenary would undertake a second reading of the draft Agreement concerning the Relationship between the United Nations and the International Sea-Bed Authority and finalize its work on this instrument. The Plenary would also resume its consideration of the paper "Administrative Arrangements, Structure and Financial Implications of the International Sea-Bed Authority".

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22. The Plenary will continue its consideration of article 21 (Privileges and immunities of experts), and in particular paragraph 1(f), of the draft Protocol on the Privileges and Immunities of the International Sea-Bed Authority (LOS/PCN/WP.49/Rev.1), and article 55 (Relationship between the Headquarters Agreement and the Protocol) of the draft Agreement between the International Sea-Bed Authority and the Government of Jamaica regarding the Headquarters of the International Sea-Bed Authority (LOS/PCN/WP.47/Rev.1) in the light of the research to be undertaken by the Secretariat. The Secretariat was also requested to revise the working paper on the Finance Committee reflecting what was achieved in the Informal Plenary on this matter.

23. The Plenary will also resume consideration of the pending issue relating to the phrase "except in cases of flagrante delicto" utilized in article 18, paragraph 2(b), and article 21, paragraph 1(b).

## III. IMPLEMENTATION OF RESOLUTION II

24. In accordance with the decision of the Preparatory Commission, the Group of Technical Experts met from 10 to 14 December 1990 at United Nations Headquarters to consider the application of the People's Republic of China for registration of the China Ocean Mineral Resources Research and Development Association as a pioneer investor under resolution II of the Third United Nations Conference on the Law of the Sea.

25. In accordance with its mandate, the Group of Technical Experts examined the application to determine whether it was in conformity with resolution II, in particular with the principle of equal estimated commercial value, subject to the guidelines and procedures set forth in the understanding contained in document LOS/PCN/L.41/Rev.1, and submitted to the General Committee its report on the application submitted by the People's Republic of China for registration of the China Ocean Mineral Resources Research and Development Association as a pioneer investor (LOS/PCN/BUR/R.7). In its report, the Group unanimously concluded that:

> "(a) Having examined the particulars submitted by the applicant, which are summarized in part I of the present report, the Group has concluded that the application has been submitted in accordance with resolution II and the understanding contained in document LOS/PCN/L.41/Rev.1.
>
> "(b) Having evaluated the technical data and information submitted by the applicant as referred to in part II of the present report, the Group determined that Areas (S and B) and (A and C) are of equal estimated commercial value.
>
> "(c) As regards the designation of the reserved area and the allocation of the pioneer area, the Group agreed to recommend for the consideration of the General Committee:
>
> " (i) That Area (A and C) should be designated as the area to be reserved for the Authority;
>
> " (ii) That Area (S and B), which includes an Area S of 52,300 square kilometres identified by the applicant, should be designated as the pioneer area to be allocated to the applicant" (LOS/PCN/BUR/R.7).

26. The General Committee met on 5 March 1991 to consider the application of the People's Republic of China in the light of the report of the Group of Technical Experts. Having considered the application, the General Committee decided:

(a) To designate area A, referred to in the report as area (A and C), as the part of the application area which is to be reserved for the conduct of activities by the Authority in the Area through the Enterprise or in association with developing States;

(b) To allocate area B, referred to in the report as area (S and B), to the applicant, the China Ocean Mineral Resources Research and Development Association (LOS/PCN/117).

27. The Chairman of the Preparatory Commission began informal consultations on the implementation of the obligations of the registered pioneer investor, the China Ocean Mineral Resources Research and Development Association.

28. On 8 March 1991, the Preparatory Commission received an application from the Governments of the Republic of Bulgaria, the Republic of Cuba, the Czech and Slovak Federal Republic, the Republic of Poland and the Union of Soviet Socialist Republics for registration of the Interoceanmetal Joint Organization as a pioneer investor under resolution II of the Third United Nations Conference on the Law of the Sea.

29. Pursuant to rule 14, paragraph 3, of the rules of procedure of the Preparatory Commission, which stipulates that the General Committee shall act on behalf of the Preparatory Commission as the executive organ for the implementation of resolution II of the Third United Nations Conference on the Law of the Sea, the General Committee met on 19 March 1991 and decided:

"1. To convene a meeting of the Group of Technical Experts to examine and report to the General Committee on said application, in accordance with the provisions of document LOS/PCN/L.41/Rev.1 of 5 September 1986, for a period not exceeding one week before the beginning of the next session of the Preparatory Commission;

"2. To authorize the Secretary-General to pay the travel costs and per diem of the members of the Group of Technical Experts and other incidental expenditures related to the processing and registration of the application out of the special account established for the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea from the registration fees paid by the pioneer investors. The expenditures incurred for the registration of the application submitted by the Republic of Bulgaria, the Republic of Cuba, the Czech and Slovak Federal Republic, the Republic of Poland and the Union of Soviet Socialist Republics for registration of the Interoceanmetal Joint Organization are to be charged against the fees to be paid by the Republic of Bulgaria, the Republic of Cuba, the Czech and Slovak Federal Republic, the Republic of Poland and the Union of Soviet Socialist Republics for registration of the Interoceanmetal Joint Organization for such registration as required under resolution II."

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30. The General Committee of the Preparatory Commission will be convened during its summer meeting in New York in order to consider the application for registration as a pioneer investor submitted by the Republic of Bulgaria, the Republic of Cuba, the Czech and Slovak Federal Republic, the Republic of Poland and the Union of Soviet Socialist Republics for registration of the Interoceanmetal Joint Organization (LOS/PCN/120).

## IV. ELECTION OF OFFICERS OF THE PREPARATORY COMMISSION

31. At its 58th meeting, held on 25 February 1991, the Plenary elected Mr. Anton D. Bouteiko of the Ukrainian Soviet Socialist Republic as the new Chairman of Special Commission 4. He replaces Mr. Gunter Goerner of the Federal Republic of Germany. At its 59th meeting, held on 11 March 1991, the Plenary elected Mr. Gregory Alan French of Australia as Chairman of Special Commission 3, to succeed Mr. Jaap A. Walkate of the Netherlands. The Plenary at its 60th meeting elected the Netherlands to replace Australia as Vice Chairman of the Preparatory Commission.

## V. THE TRAINING PANEL

32. The "Principles, Policies, Guidelines and Procedures for a Preparatory Commission Training Programme" (LOS/PCN/SCN.2/L.6/Rev.1) for deep sea-bed mining, adopted by the Preparatory Commission on 31 August 1989, provides for the establishment of a Training Panel. It states, inter alia, that:

> "The Panel will consist of 15 members who are experts in appropriate fields. The composition of the Panel will be determined by the Preparatory Commission and revised as required. The Training Panel will meet during meetings of the Preparatory Commission, unless the Commission decides otherwise."

33. In accordance with the guidelines, the Chairman undertook a series of consultations with the Chairmen of the regional groups with respect to the composition of the Training Panel. It was agreed that the guidelines should be modified as regards the composition of the panel. Accordingly, the Panel will consist of 16 members selected on the basis of the principle of equitable geographical distribution and, in addition, one expert from each of the registered pioneer investors shall be entitled to be a member of the Panel. The regional distribution is as follows: five from Africa; four from Asia; three from Latin America and the Caribbean; three from Western Europe and one from Eastern Europe.

34. The Chairman has selected a list of experts from the nominees submitted by States to constitute the Training Panel. The list of experts is annexed to this report.

## VI. FUTURE WORK OF THE PREPARATORY COMMISSION

35. During this session the Chairman of the Preparatory Commission undertook intensive discussions with the Chairmen of the Special Commissions, the Chairmen of the Regional Groups and the members of the General Committee on the future work of the Preparatory Commission. It was felt that the Preparatory Commission should continue to meet twice a year. However, there was overwhelming support for the view that the length of the meetings should be reduced by one or two weeks. On this basis, it is recommended that the duration of a given meeting be established at the preceding meeting.

36. On the advice of the Chairmen of the Special Commissions, the Chairman recommended that the Commission should continue to be guided in its work by the target date - summer 1991 - specified in the Statement by the Chairman of the Preparatory Commission in document LOS/PCN/L.72. It is desirable that the Special Commissions should by then begin the consideration of the issues related to the final report. During the spring 1992 session the Preparatory Commission should continue to focus its consideration on those issues.

## VII. SUMMER MEETING OF THE PREPARATORY COMMISSION

37. The Preparatory Commission will hold its summer meeting in New York from 12 to 30 August 1991.

## Annex

### THE TRAINING PANEL

| | | |
|---|---|---|
| 1. | Jung Ho Ahn | Republic of Korea |
| 2. | Arne Bjorlykke | Norway |
| 3. | Baidy Diene | Senegal |
| 4. | Nkwelle Ekaney | Cameroon |
| 5. | Abul Farah | Pakistan |
| 6. | Ivan F. Gloumov | Soviet Union |
| 7. | Jean-Noel Gony | France |
| 8. | Wojciech Goralczyk | Poland |
| 9. | Marcus Aguiar Gorini | Brazil |
| 10. | Peter Halbach | Germany |
| 11. | Mehdi Kamalipour | Iran (Islamic Republic of) |
| 12. | Ichota Kountondja | Togo |
| 13. | Zohair A. Nawab | Saudi Arabia |
| 14. | Francisco E. Nullo | Argentina |
| 15. | Mohamed Sadiqui | Morocco |
| 16. | M.M.K. Sardana | India |
| 17. | Marco Fluckiger Stahle | Chile |
| 18. | Abderrahman Touhami | Tunisia |
| 19. | Akira Usui | Japan |
| 20. | Leopold Weber | Austria |
| 21. | Jin Xianglong | China |

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INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA
New York, 12-30 August 1991

## STATEMENT BY THE CHAIRMAN OF THE PREPARATORY COMMISSION

1. During the current session, the plenary dealt with the following matters:

   (a) Organization of work;

   (b) Preparation of draft agreements, rules, regulations and procedures;

   (c) Implementation of resolution II;

   (d) The Training Panel.

## I. ORGANIZATION OF WORK

2. On 12 August 1991, on the recommendation of the General Committee, the plenary adopted a programme of work for the current session of the Commission which enabled all the special commissions and the plenary on the Authority to meet. The programme was adopted on the understanding that changes would be made as circumstances required.

## II. PREPARATION OF DRAFT AGREEMENTS, RULES, REGULATIONS AND PROCEDURES FOR THE AUTHORITY

3. At the first meeting of the plenary on the Authority, held on 13 August 1991, the Chairman outlined the programme of work for the current session. The programme envisaged that the plenary would devote its first two meetings to the second reading of the draft Agreement concerning the Relationship between the United Nations and the International Seabed Authority and at the subsequent two meetings, during the second week, it would then resume the examination of the background paper by the Secretariat on administrative arrangements, structure and financial implications of the

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International Seabed Authority. The remaining meetings during the second week were allocated to the consultations of the Chairman with the interested delegations on matters related to the establishment of the Finance Committee as well as on the pending articles of the draft Agreement between the International Seabed Authority and the Government of Jamaica regarding the Headquarters of the International Seabed Authority and the draft Protocol on the Privileges and Immunities of the International Seabed Authority.

4. In accordance with the above programme of work, the plenary commenced its work with the examination of the draft Agreement concerning the Relationship between the United Nations and the International Seabed Authority and completed its second reading. In considering the draft agreement the plenary had before it a revised text of the relationship agreement (LOS/PCN/WP.50/Rev.1) and a working paper prepared by the Secretariat on the sources of those provisions (LOS/PCN/1991/CRP.46).

5. In the second reading the plenary provisionally approved without amendments the third paragraph of the preamble and articles 1; 2; 3, paragraph 1; 4, paragraph 2; 5; 6; 8, paragraph 3; 9, paragraph 2;10, paragraphs 1 and 4; and 19-22.

6. The plenary also adopted as orally amended the first and second paragraphs of the preamble and articles 3, paragraph 2; 8, paragraph 2; 9, paragraph 1; and 12.

7. In approving article 19 on the possible use by the Authority of the United Nations laissez-passer, the plenary took note of the reservations expressed in this regard by the delegation of Japan.

8. The question as to whether reports on the activities of the Authority should be transmitted to the United Nations (article 10, paragraph 3) was the subject of much discussion. It was decided that the Secretariat should study further, in the light of the various opinions expressed during the debate, whether the paragraph should be retained in the text of the draft Agreement.

9. The plenary decided that articles 13 (Relations with specialized agencies and other related organizations), 14 (Administrative cooperation) and 15 (Regional branches, centres and offices) should be deleted from the text of the relationship agreement.

10. The plenary could not reach agreement on articles 4, paragraph 1; 7; 8, paragraph 1; 10, paragraph 2; 11; and 16-18. In order to resolve the remaining difficulties with those articles, the Chairman would consult with interested delegations and then would bring the results to the plenary for its approval.

11. As far as articles 16 (Personnel arrangements), 17 (Budgetary and financial matters) and 18 (Financing of special services) are concerned, it was understood that finalization of their texts would depend on the discussions held with regard to working paper 51.

12. The plenary devoted one meeting to the consideration of the paper on administrative arrangements, structure and financial implications of the International Seabed Authority (LOS/PCN/WP.51). Further discussion of the paper was continued during the session at the level of consultations.

13. In examining the working paper the plenary focused its attention on the the following subjects: guidelines (para. 7); presumed stages of activities of the Authority (para. 9); functions ot the Authority during the initial period (para. 14); the so-called "springboard" approach (para. 16); the question of staffing requirements of the Authority (para. 29); and conference-servicing requirements and expenses (para. 52).

14. On the issue of guidelines, the plenary agreed that the structure of the Authority should ensure efficiency and cost-effectiveness and that the Authority should be no larger or smaller than required in order to guarantee the adequate performance by the Authority of its functions at a particular stage of its activities.

15. With reference to the presumed three stages of activities of the Authority referred to in paragraph 9 of working paper 51, the plenary concluded that such an approach should not be interpreted as being detrimental to the institutional structure of the Authority.

16. Having studied the issue of functions of the Authority in the initial period, the plenary agreed that the list of such functions referred to in paragraph 14 of working paper 51 should be further developed in the light of discussions and in particular should be supplemented by the provisions on monitoring the activities of former pioneer investors and on the protection of the environment. The Secretariat was asked to prepare a paper outlining the activities to be performed by the Authority under various functions.

17. With respect to paragraph 16 carrying the rubric "'springboard' approach", it was agreed that the term should be deleted and replaced by the term "evolutionary approach" which better conveys the idea of the gradual development of the activities of the Authority. The plenary reached an understanding that as the activities of the Authority develop every effort should be made to ensure that those activities are carried out in the most effective and cost-efficient manner, while at the same time preserving the institutional structure of the Authority.

18. With regard to the question of professional staff needed by the Authority during the initial period, the plenary concluded that the nature and level of such staff depended on the activities to be performed by the Authority. Therefore, it was decided that the consideration of the question should be postponed until the Secretariat prepared the list of activities of the Authority under various functions (see para. 16 above).

19. In connection with the consideration of the issue of the conference-servicing requirements and costs, the Chairman pointed out that the figures referred to in paragraph 52 of working paper 51 should only be viewed

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as an assumption, while at the same time it should be understood that longer and more frequent meetings would involve additional costs. In summarizing the discussion on the issue, the Chairman stated that when any decision on conference-servicing requirements and expenses was being made the following three guidelines should be borne in mind: the provisions of the United Nations Convention on the Law of the Sea should be observed; every effort should be made to make any future arrangements cost-effective to the maximum extent possible; the meetings of the organs of the Authority should be scheduled as regularly as possible to implement effectively the functions assigned to the Authority.

20. The matters related to the Finance Committee were discussed by the plenary at the level of consultations.

21. As decided at the last session, the Secretariat had prepared a revised working paper on the Finance Committee (LOS/PCN/WP.45/Rev.1), reflecting what had been accomplished on this matter in the course of the previous discussions.

22. Consultations confirmed that most of the participants preferred the Finance Committee to be established as a subsidiary organ of both the Assembly and the Council.

23. With regard to the composition of the Finance Committee, it was understood that although the Preparatory Commission would recommend that the Finance Committee be composed of 15 members, the Authority would of course be free to decide otherwise or to change that number at any given time in the future.

24. After quite a lengthy debate on the criteria to be taken into account in the election of the members of the Finance Committee, the Chairman summarized the discussion by saying that there was a general agreement on the first two criteria mentioned in paragraph 2 of working paper 45/Rev.1, and that there appeared to be a need for further discussion with regard to the third criterion relating to the representation of States Parties with the highest contribution to the administrative budget of the Authority.

25. On the question of the programme of work of the plenary on the Authority, it was decided that at the session in Kingston the Chairman would undertake consultations on the pending articles of the relationship agreement with a view to finalizing their text and bringing it to the plenary for approval. The plenary would continue its consideration of the matters related to the administrative arrangements, structure and financial implications of the International Seabed Authority. The plenary would also discuss the pending articles 1 (f) and 21 of the draft Protocol on the Privileges and Immunities of the International Seabed Authority as well as article 55 of the draft Agreement between the International Seabed Authority and the Government of Jamaica regarding the Headquarters of the Seabed Authority. The Chairman would continue at the session in Kingston his consultations on the Finance Committee and the so-called "hard-core" issues. In accordance with resolution I of the Third United Nations Conference on the Law of the Sea, the

Secretariat will prepare guidelines for the drafting of financial regulations for consideration at the next session.

## III. IMPLEMENTATION OF RESOLUTION II

26. In accordance with the decision of the Preparatory Commission, the Group of Technical Experts met from 1 to 5 July 1991 at United Nations Headquarters to consider the application submitted by the Governments of the Republic of Bulgaria, the Republic of Cuba, the Czech and Slovak Federal Republic, the Republic of Poland and the Union of Soviet Socialist Republics for registration of the Interoceanmetal Joint Organization (IOM) as a pioneer investor under resolution II of the Third United Nations Conference on the Law of the Sea.

27. The General Committee noted that, in accordance with paragraph 4 of the statement of understanding of 5 September 1986 (LOS/PCN/L.41/Rev.1, annex), the Group of Technical Experts had determined that the application of the Governments of the Republic of Bulgaria, the Republic of Cuba, the Czech and Slovak Federal Republic, the Republic of Poland and the Union of Soviet Socialist Republics for registration of the Interoceanmetal Joint Organization as a pioneer investor was in confirmity with resolution II of the Third United Nations Conference on the Law of the Sea, in particular with the principle of equal estimated commercial value, subject to the guidelines and procedures set forth in the above-mentioned statement of understanding.

28. It was noted that in accordance with paragraph 21 of the statement of understanding of 5 September 1986 (LOS/PCN/L.41/Rev.1, annex) "a group of all or several socialist States of Eastern Europe, or a group of State enterprises of such States, shall have the right to apply as pioneer investors in accordance with resolution II for one pioneer area until the United Nations Convention on the Law of the Sea enters into force". The following States - Bulgaria, Byelorussian SSR, Czechoslovakia, German Democratic Republic,* Hungary, Poland, Ukrainian SSR and the USSR - were identified as falling within this category (LOS/PCN/L.41/Rev.1, annex, note a, p. 13). Cuba, which was one of the States submitting the application, was not included in the list. The General Committee decided to recommend to the Preparatory Commission that Cuba be deemed to be included in the list of above-mentioned States.

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* Through accession of the German Democratic Republic to the Federal Republic of Germany with effect from 3 October 1990, the two German States have united to form one sovereign State. As from the date of unification, the Federal Republic of Germany acts in the United Nations under the designation of "Germany".

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29. The General Committee, having considered the application of the Governments of the Republic of Bulgaria, the Republic of Cuba, the Czech and Slovak Federal Republic, the Republic of Poland and the Union of Soviet Socialist Republics for registration of the Interoceanmetal Joint Organization as a pioneer investor under resolution II of the Third United Nations Conference on the Law of the Sea, taking into account the report submitted by the Group of Technical Experts, noted with appreciation the conclusions reached by the Group of Technical Experts:

(a) Having examined the technical particulars submitted by the applicant which are summarized in section I of its report (LOS/PCN/BUR/R.8), the Group concluded that the application had been submitted in accordance with resolution II and the understanding contained in document LOS/PCN/L.41/Rev.1, annex;

(b) Having evaluated the technical data and information submitted by the applicant as referred to in section II of its report (LOS/PCN/BUR/R.8), the Group determined that areas A and B are of equal estimated commercial value;

(c) As regards the designation of the reserved area and the allocation of the pioneer area, the Group agreed to recommend for the consideration of the General Committee:

(i) That area A should be designated as the area to be reserved for the Authority;

(ii) That area B, which included an area of 52,300 square kilometres identified by the applicant, should be designated as the pioneer area to be allocated to the applicant.

30. The General Committee met on 21 August 1991 to consider the application of the Governments of the Republic of Bulgaria, the Republic of Cuba, the Czech and Slovak Federal Republic, the Republic of Poland and the Union of Soviet Socialist Republics for registration of the Interoceanmetal Joint Organization as a pioneer investor under resolution II of the Third United Nations Conference on the Law of the Sea, in the light of the report of the Group of Technical Experts. Having considered the application, the General Committee decided:

(a) To designate area A as the part of the application area which was to be reserved for the conduct of activities by the Authority in the Area through the Enterprise or in association with developing States;

(b) To allocate area B, which included an area of 52,300 square kilometres identified by the applicant, as a pioneer area to the applicant, the Interoceanmetal Joint Organization.

31. At its 63rd meeting the Preparatory Commission, as the General Committee had requested, decided to include Cuba in the list of States having the right to apply as pioneer investors in accordance with resolution II for one pioneer

area until the United Nations Convention on the Law of the Sea enters into force (see para. 28 above).

32. The Chairman of the Preparatory Commission continued his informal consultations on the implementation of the obligation of the registered pioneer investor, the China Ocean Mineral Resources Research and Development Association (COMRA). Although the consultations on the implementation of the obligations of the registered pioneer investor (COMRA) had been completed, it became apparent that more time would be needed to enable the General Committee to adopt the understanding, inasmuch as the matter of similar treatment for future applicants was still pending.

33. The Chairman informed the General Committee that it was his intention to convene meetings of the General Committee to monitor the implementation of the obligations of the registered pioneer investors.

## IV. THE TRAINING PANEL

34. The Training Panel met on 19, 20 and 21 August 1991 at United Nations Headquarters and held four meetings on the training schedule. At its first meeting, the Panel adopted its agenda and elected Mr. Baidy Diene (Senegal) as its Coordinator.

35. The Panel was of the opinion that the traineeships should cover the priority disciplines set forth in LOS/PCN/BUR/R.6 that identified five engineering disciplines (chemical/metallurgical, electrical, electronic mechanical and mining) as well as marine geology, marine geophysics and marine ecology.

36. The report of the first meeting of the Training Panel to the General Committee is contained in LOS/PCN/BUR/R.9. The decision of the General Committee on matters relating to the Training Panel is annexed to the present statement.

37. At the 63rd meeting of the Preparatory Commission, Mr. Lennox Ballah in his capacity as Chairman of Special Commission 2, was appointed an ex-officio member of the Training Panel.

## V. TENTH SESSION OF THE PREPARATORY COMMISSION

38. In accordance with the decision taken by the Preparatory Commission which stated that "the duration of a given meeting be established at the preceding meeting (LOS/PCN/L.92, para. 36)", the Preparatory Commission decided to hold its tenth session at Kingston for a three-week period from 24 February-13 March 1992. This does not preclude the holding of the usual four-week session at Kingston in spring 1993 if the Preparatory Commission so decides. It was also decided that the Training Panel will meet simultaneously with the meeting of the Preparatory Commission.

## Annex

## DECISION ADOPTED ON 29 AUGUST 1991 BY THE GENERAL COMMITTEE ON MATTERS RELATING TO THE TRAINING PANEL

1. The Training Panel will meet simultaneously with the meeting of the Preparatory Commission which will be held at Kingston from 24 February to 13 March 1992.

2. The Panel will be provided with the training programmes which will be resubmitted by Japan and the Union of Soviet Socialist Republics, and the training programme to be submitted by India, for its consideration.

3. The Preparatory Commission requests that the pioneer investors India, Japan and the USSR make all efforts to present their programmes during the course of 1991.

4. The Panel will develop specific criteria for the selection of candidates and standard forms for applications.

5. In the case of the training programme submitted by France, the commencement date specified in its programme will be maintained, provided that the applications of the candidates are presented in due form to allow for the proper processing of the applications.

6. A note verbale will be sent by the Secretary-General covering all programmes that have been approved immediately after the meeting of the Training Panel to be held during the tenth session of the Preparatory Commission at Kingston.

7. Nominations submitted in response to the note verbale should be presented by 15 June 1992.

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AUTHORITY AND FOR THE
INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA
Tenth session
Kingston, Jamaica
24 February-13 March 1992

# STATEMENT BY THE CHAIRMAN OF THE PREPARATORY COMMISSION

## Corrigendum

Page 7

After paragraph 33, insert a new paragraph reading

33*bis*. The registered pioneer investors, France, Japan and the Soviet Union, in accordance with LOS/PCN/L.87, annex, paragraph 7, completed the preparatory work for the exploration of one mine site in the area reserved for the Authority and have transmitted to the Special Representative of the Secretary-General for the Law of the Sea, the Under-Secretary-General for Ocean Affairs and the Law of the Sea, a joint report entitled "Preparatory Work in the International Authority Reserved Area, August 1991" for submission to the Preparatory Commission. The Commission decided that the details of the data and information contained in that report will be presented for review and evaluation by a group of technical experts.

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PREPARATORY COMMISSION FOR THE
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FOR THE LAW OF THE SEA
Tenth session
Kingston, Jamaica
24 February-13 March 1992

## STATEMENT OF THE CHAIRMAN OF THE PREPARATORY COMMISSION

1. During the present session, the Plenary dealt with the following matters:

(a) Organization of work;

(b) Preparation of draft agreements, rules, regulations and procedures;

(c) Implementation of resolution II;

(d) The Training Panel;

(e) Admission of Aruba as an observer in the Preparatory Commission;

(f) The future work of the Preparatory Commission;

(g) Meeting to welcome Mr. Carl-August Fleischhauer, Under-Secretary-General for Legal Affairs and the Legal Counsel of the United Nations; and

(h) The summer meeting of the Preparatory Commission.

### I. ORGANIZATION OF WORK

2. On 24 February 1992, on the recommendation of the General Committee, the Plenary adopted a programme of work for the present session of the Commission which enabled all the special commissions and the Plenary on the Authority to meet. The programme was adopted on the understanding that changes would be made as circumstances required. In accordance with the decision of the Preparatory Commission, the Training Panel met during the first week simultaneously with the meeting of the Preparatory Commission.

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## II. PREPARATION OF DRAFT AGREEMENTS, RULES, REGULATIONS AND PROCEDURES

3. At its first meeting, held on 25 February 1992, at the suggestion of the Chairman, the Plenary on the Authority adopted its programme of work for the present session. According to this programme the Plenary decided to start its work with the consideration of the pending articles of the Agreement concerning the Relationship between the United Nations and the International Sea-Bed Authority and proceed with the examination of pending issues of the draft Agreement between the International Sea-Bed Authority and the Government of Jamaica regarding the Headquarters of the International Sea-Bed Authority and the draft Protocol on the privileges and immunities of the International Sea-Bed Authority in order to complete the texts of these instruments. It was agreed that the Chairman will first hold informal consultations and, if successful, the results of these consultations would be subsequently submitted for the approval of the Plenary. In accordance with the programme of work, it was envisaged that time allocated to the Plenary on the Authority during the second week of the session would be primarily used for the consultations of the Chairman with interested delegations on the matters related to the Finance Committee and, time permitting, to the consideration of some of the hard-core issues. It was planned that during the third week, the Plenary on the Authority would address the issues related to the administrative arrangements structure and financial implications of the International Sea-Bed Authority and consider the guidelines for the drafting of the financial regulations of the Authority.

4. In accordance with this programme of work, the Plenary on the Authority commenced its work, at the level of consultations, with the consideration of the pending articles of the draft Agreement concerning the Relationship between the United Nations and the International Sea-Bed Authority, contained in document LOS/PCN/WP.50/Rev.1. The results of the consultations on the above articles were submitted to the Plenary meeting held on 10 March 1992 and were approved by it.

5. Article 4, paragraph 1, on assistance to the Security Council was approved on the understanding that the words in the first set of brackets should be deleted and that the text in the second set of brackets should be retained with the brackets removed. It was also decided that the words "subject to Article 4, paragraph 1" shall be added in Article 10, paragraph 2.

6. It was decided to delete Article 7 concerning public information on the understanding that in Article 3 at the end of paragraph 1 there would be included the reference to "public information" and in paragraph 2 the word "desirability" would be substituted by the word "necessity."

7. It was agreed that the following changes would be made in the text of Article 10 on exchange of information, data and documents:

(a) in paragraph 1 the word "reports" will be added after the word "publications" so that the text would read "publications and reports of mutual interest";

(b) at the beginning of the second sentence of paragraph 2 of Article 10, the words "subject to Article 4, paragraph 1" will be inserted. This is being done in accordance with an agreement reached at the time of the consideration of Article 4;

(c) paragraph 3 will be deleted because it is covered by the text of paragraph 1 where the word "reports" is added;

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(d) paragraph 4 will be deleted because it is covered by Article 319 of the United Nations Convention on the Law of the Sea.

8. Article 11 on statistical services was approved, with the removal of the brackets in the first paragraph.

9. In accordance with the decision taken by the Plenary the following changes will be introduced into the text of Article 16, concerning personnel arrangements;

(a) in the first paragraph the following words will be deleted "to avoid competition in recruitment of personnel and to facilitate any mutually desirable and beneficial interchange of personnel";

(b) in paragraph 3 the words "upon the approval of the General Assembly" will be included;

(c) in paragraph 4 the idea of reciprocity will be reflected in such a way that this paragraph would refer to the staff of the Authority as well as to the staff of the United Nations;

(d) in paragraph 4 the words "to the extent possible" will be replaced by the words "as appropriate."

10. Having examined Article 17, concerning budgetary and financial matters, the Plenary came to the conclusion that its present text should be deleted and replaced with a new, general provision stating that; "the Authority recognizes the desirability of establishing close budgetary and financial co-operation with the United Nations aimed at benefiting from the experience of the United Nations in this field."

11. With regard to Article 18 on financing of special services the Plenary decided that its text should be replaced with a new and more general provision stating that "the costs and expenses to be incurred for the provision of services pursuant to this Agreement shall be agreed upon in an equitable manner between the Authority and the United Nations."

12. With the approval of these changes in the Relationship Agreement the Plenary almost finalized its text. The only article pending is Article 8 on reciprocal representation, which relates to the hard-core issue of observers.

13. The results of the consultations on the pending issues of the draft Headquarters Agreement and the draft Protocol on the privileges and Immunities of the Authority were also presented and approved at the meeting of the Plenary held on 10 March 1992.

14. The only issue pending in the draft Headquarters Agreement was Article 55 on the Relationship between the Headquarters Agreement and the Protocol on the Privileges and Immunities of the Authority. It was agreed to retain this article, on the understanding that for the purposes of article 55, any supplementary agreements concluded in accordance with Article 56 would be part and parcel of the Headquarters Agreement. The Plenary, then finalized the text of the draft Agreement between the International Sea-Bed Authority and the Government of Jamaica regarding the Headquarters of the International Sea-Bed Authority. The Secretariat is asked to publish the final version of this Agreement incorporating all the changes.

15. The main issue left pending in the draft Protocol on the privileges and immunities of the Authority was the concept of "flagrante delicto", which can

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be found in Articles 18, paragraph 2(b), and 21, paragraph 1(b), concerning the privileges and immunities of officials and experts. It was decided to retain this concept. It was also agreed that in both paragraphs the following words would be added: "Inspections shall in the case of personal baggage be conducted only in the presence of the official concerned or his authorized representative, and in the case of official baggage, in the presence of the authorized representative of the Secretary General."

16. The other issue involved was Article 21, paragraph 1(f), concerning exemption of experts employed by the Authority from immigration restrictions, alien registration requirements and national service obligations. It was agreed to retain this article as drafted, on the understanding that the exemption from national service obligations did not apply in the case of the country of origin of the expert.

17. The Secretariat is requested to publish the final text of the draft Protocol incorporating all these changes.

18. In accordance with the programme of work approved by the Plenary on the Authority at the beginning of the current session, the Chairman continued his consultations with interested delegations on the matters related to the Finance Committee.

19. Participants in the consultations had before them a revised Working Paper on the Finance Committee, circulated by the Secretariat in document LOS/PCN/WP.45/Rev.1, which had been prepared taking into account the views and suggestions expressed in the course of the previous discussions.

20. As was indicated in the Chairman's report on the work of the Plenary on the Authority at the eight session held in Kingston in March 1990 (LOS/PCN/L.82, paragraph 24), the following three main areas were identified as requiring particular attention in connection with the Finance Committee:

(a) Composition;
(b) Functions;
(c) Decision-making.

21. At the previous session in New York, participants in the consultations examined the first four sections of the revised Working Paper on the Finance Committee, related to establishment, composition, nominations and elections. The results of these consultations were reflected in the report of the Chairman on the work of the Plenary on the Authority at that session contained in document (LOS/PCN/L.97, paragraphs 20-24).

22. At the present session, consultations continued on other sections of the Working Paper, concerning term of office, functions, decision-making, frequency of sessions, place of session and other matters.

23. With regard to the section on "Term of Office" it was decided to retain its text with the deletion of paragraph 2.

24. The sections on "frequency of sessions", "place of session" and "other matters" were approved without major discussion.

25. The issue of functions of the Finance Committee has received a very careful examination in the past. The outcome of it was reflected in the revised Working Paper. At this session the list of functions was again reviewed.

26. The first function on the list was approved on the understanding that a new function would be included after it, which would read as follows:

> "Make recommendations to the Council with respect to the rules relating to the financial management of the Authority referred to in Article 162, paragraph 2(o)(ii), of the Convention without prejudice to the functions of the Legal and Technical Commission mentioned therein."

27. Functions 2, 8, 10, 13 and 15 were approved without any changes.

28. It was decided to reinstate at the end of the list a function on potential additional assignments which existed in one of the previous drafts and which reads as follows:

> "Perform such other functions as may be assigned to it by the Council or the Assembly."

29. In the third function it was decided to add a reference to the Assembly.

30. In function four it was decided to substitute the word "thereon" by the words "to be made on that basis."

31. With regard to function five, it was agreed to substitute its text by a new one and to delete function six which would be covered by a revised text of function five. The new text of function five will read as follows:

> "Make recommendations to the Council and the Assembly on the financial regulations regarding the limits on borrowing power of the Authority and the Enterprise (Articles 174, paragraph 2, 160, paragraph 2(o)(ii)) as well as on the exercise of the borrowing power (Articles 174, paragraph 3, 11, paragraph 2(a) of Annex (IV)."

32. Function seven was approved with the deletion of words "upon its request," and the addition of the words "whenever there is a financial implication" at the end of its text.

33. Functions nine, eleven and fourteen were also approved with the deletion of the words "upon its request."

34. In connection with function twelve a delegation submitted a revised version envisaging that the Finance Committee could also make recommendations to the Council and the Assembly on the rules, regulations and procedures, as proposed by the Governing Board of the Enterprise, on the transfer of funds from the Enterprise to the Authority as well as on the proposal of the Governing Board of the Enterprise concerning the portion of the net income of the Enterprise to be retained as reserves of the Enterprise. The same delegation also proposed to supplement the present list by two additional functions. These functions provide for the Finance Committee to make recommendations to the Council and the Assembly on the draft rules related to the organization, management, appointment and dismissal of the staff of the Enterprise and the Authority respectively.

35. The participants in the consultations did not have enough time to undertake a careful examination of the proposals made by that delegation and therefore, decided to return to them at the next session. During the preliminary consideration of these proposals, concern was expressed by some delegations that those proposals might create an imbalance between the powers of the various organs of the Authority. In this regard it was suggested, as a possible compromise solution, to insert the words "upon its request" in the

text of all three proposals.

36. At the consultations, the participants continued an exchange of views on the issue of decision-making.

37. As in the past, while some of the participants leaned towards the procedures envisaging the taking of decisions in the Finance Committee by various majorities, others showed a strong preference for the consensus approach.

38. In this connection, some of the participants pointed out that it would be difficult to take a final position at this stage on decision-making without first deciding on the representation of various groups of states on the Finance Committee. These participants held the view that the issue of the relationship between the Finance Committee on the one hand, and the Assembly and the Council on the other, and in this regard, the question of the value of the recommendations of the Finance Committee would require further consideration.

39. Other participants were convinced that in approaching the issue of decision-making, the character of the Finance Committee, as an expert body, should be kept in mind. In this connection, they referred to precedents of decision-making procedures in the similar bodies of the organizations of the United Nations system and stressed that the Authority should capitalize on such successful experience. Some delegations noted that although the composition of the Finance Committee was an important matter, it should not have a decisive effect on decision-making because the Finance Committee is an expert body and its members act in their personal capacity and not as representatives of member states.

40. On the question of the programme of work of the Plenary on the Authority, it was decided that at the summer session in New York, the Plenary would continue its consideration of the matters related to the administrative arrangements, structure and financial implications of the International Sea-Bed Authority. It would also consider the last pending article (Article 8) of the draft Agreement concerning the relationship between the United Nations and the International Sea-Bed Authority. At the summer meeting in New York, the Chairman will continue his consultations on the remaining issues relating to the functions of the Finance Committee.

41. At the summer meeting in New York, the Plenary will also proceed to the consideration of its final report and every effort should be made to complete the preparation of that report.

## III. IMPLEMENTATION OF RESOLUTION II

42. In accordance with the decision of the Preparatory Commission, the Group of Technical Experts met between 18 and 20 February 1992 at United Nations Headquarters to review and evaluate the joint report carrying the rubric "Preparatory Work in the International Authority Reserved Area - August 1991". This report contained the Preparatory work carried out by the registered pioneer investors IFREMER/AFERNOD, DORD and Yuzhmorgeologiya in accordance with the understanding on the fulfilment of obligations by the registered pioneer investors and their certifying states (LOS/PCN/L.87, annex, paragraph 7).

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43. Based on the detailed examination of the documents submitted jointly by the three pioneer investors on the preparatory work, the Group concluded that:

- the activities and the means employed by the pioneer investors for executing the preparatory work and its outputs are in conformity with the requirements set out by the Group in its earlier report of 16 August 1989 (document LOS/PCN/BUR/R.5);
- the methodology employed for reconciliation/adjustment of data from various sources is of a high technical order; and
- the objective of the preparatory work has been fully met in that the compilations and illustrations are comprehensive enough to facilitate detailed planning of stage I of the exploration plan.

The Group recommended that:

- the implementation of stage I of the exploration plan may now be undertaken;
- stage I of the exploration plan must cover the entire area of 71,570 square kilometres and not be limited to promising areas based on present indications;
- a detailed work plan and operational schedule for the exploration of stage I may be developed jointly by the three pioneer investors;
- multi-beam bathymetric mapping and multi-frequency acoustic mapping with sampling necessary for calibration may be taken up independently of each other. Sampling and spot photography at 15 kilometres by 15 kilometres grid may then be undertaken in areas selected on the basis of the results of the multi-beam and multi-frequency acoustic surveys;
- the Division for Ocean Affairs and the Law of the Sea may acquire, when necessary, the hardware and software that may be helpful in future to process the data for producing the desired maps and tables.

44. At its meeting on 12 March 1992, the General Committee considered the report and approved the recommendations therein.

45. In accordance with paragraph 5 of the fulfilment of obligations by the registered pioneer investors and their certifying States (LOS/PCN/L.87, annex) the certifying States, India, France, Japan and the Russian Federation submitted periodic reports to the Preparatory Commission on the pioneer activities carried out respectively by the registered pioneer investors. India, IFREMER/AFERNOD, DORD and Yuzhmorgeologiya (LOS/PCN/BUR/R.11; LOS/PCN/BUR/R.12; LOS/PCN/BUR/R.13 and LOS/PCN/BUR/R.14). France, India and Japan made oral presentations of their reports to the General Committee on 26 February 1992. The report submitted by the delegation of the Russian Federation was orally presented and was considered by the General Committee on 10 March 1992.

46. The General Committee, having considered the reports of the certifying States, took note of them.

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47. As had been agreed, during this session the Chairman resumed consultations on the modalities for the implementation of the obligations of the registered pioneer investor, the China Ocean Mineral Resources Research and Development Association (COMRA). At this session these consultations reached a successful conclusion. The General Committee, on behalf of the Preparatory Commission unanimously adopted on 12 March 1992 the understanding on the fulfilment of obligations by the registered pioneer investor, the China Ocean Mineral Resources and Development Association (COMRA) and its certifying State, the People's Republic of China. The understanding is contained in the annex to this statement.

48. On account of practical reasons, the Chairman did not undertake consultations on the modalities for the implementation of the obligation of Interoceanmetal Joint Organization (IOM) as planned. The Chairman intends to undertake these consultations at the summer meeting of the Preparatory Commission.

## IV. TRAINING PANEL

49. At this session, the Training panel met on 25, 26, 27 and 28 February 1992 and held seven meetings, inter-alia, to consider the revised training programmes of Japan and the Russian Federation, examine the information submitted by India on its training programme, establish the minimal qualifications of applicants for the training programme, develop criteria for selecting candidates and review the draft note verbale on the training programme offered by France. The report of this meeting of the Training Panel is contained in LOS/PCN/BUR/R.15.

50. The Panel approved the revised training programme offered by Japan and a new draft note verbale announcing both the training programmes of Japan and France. The Panel requested India to resubmit information on its revised training programme at the summer session.

51. On 12 March 1992, the General Committee considered the report of the second meeting of the Training Panel and took note of it. It also took note of the note verbale on the training programmes offered by France and Japan (LOS/PCN/BUR/R.16). The Training Panel will meet during the first week of the summer meeting in New York.

## V. ADMISSION OF ARUBA AS AN OBSERVER IN THE PREPARATORY COMMISSION

52. At the 68th meeting of the Plenary, the Preparatory Commission granted Aruba observer status in the Preparatory Commission in accordance with its rules of procedure.

## VI. THE FUTURE WORK OF THE PREPARATORY WORK

53. During this session the Chairman raised the question of future work of the Preparatory Commission with various delegations and interested groups. The Chairman expressed concern over the continuing erosion of interest and participation in the Preparatory Commission.

54. To facilitate better planning of the future work of the Preparatory Commission and to promote the participation of delegations in its work, the Chairman undertook consultations with the Chairmen of the Special Commissions and interested delegations and suggested that a progress report on the work of the Preparatory Commission, since its inception, be prepared and issued as a report of the Chairman.

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55. This report will assist the Preparatory Commission in deciding the course of its future work. It is not designed to interfere with the work of the Preparatory Commission. In particular, it will not hinder the preparation of its Final Report.

56. On the basis of those consultations, it was agreed that a progress report on the work of the Preparatory Commission will be prepared. It will be succinct and will outline the mandate of the Preparatory Commission and then list those issues that have been dealt with and those that remain to be dealt with.

57. The report would attempt to provide Governments with a global view of the work undertaken by the Commission during the past ten years. This report will be a factual assessment giving a global view of what the Preparatory Commission has done and listing the issues that are still pending.

58. The Chairman of the Preparatory Commission met twice with the Chairmen of the Special Commissions to discuss the future work of the Preparatory Commission. They agreed to continue focusing on the preparation of the final report during the summer meeting of the Preparatory Commission. Efforts should be made to complete the preparation of the final report by the summer meeting.

## VII. MEETING OF THE PLENARY TO WELCOME MR. CARL-AUGUST FLEISCHHAUER, UNDER-SECRETARY-GENERAL FOR LEGAL AFFAIRS AND THE LEGAL COUNSEL OF THE UNITED NATIONS

59. On its 67th meeting the Plenary of the Preparatory Commission welcomed Mr. Carl-August Fleischhauer, Under-Secretary-General for Legal Affairs and the Legal Counsel of the United Nations. The Chairman of the Preparatory Commission welcomed Mr. Fleischhauer and congratulated him on his assumption of new responsibilities related to the law of the sea. He particularly noted that Mr. Fleischhauer's contribution in helping to find a solution to outstanding issues regarding the deep sea-bed mining regime will be welcome. He pledged his full support and cooperation to Mr. Fleischhauer in the discharge of his new responsibilities.

60. Mr. Fleischhauer said that the restructuring of the United Nations and the integration of the Office for Ocean Affairs and the Law of the Sea into the Legal Office did not imply a change in the policy of the United Nations with respect to the law of the sea. The global and comprehensive approach to the law of the sea will be maintained and the programmes and sub-programmes of the United Nations in the field of Ocean Affairs and the Law of the Sea will remain unaffected.

61. The representatives of various groups welcomed Mr. Fleischhauer. Statements were made by the representatives of: Senegal (on behalf of the African Group), Kuwait (on behalf of the Asian Group), United Kingdom (on behalf of the Western European and Others Group), Kenya (on behalf of the Group of 77), Portugal (on behalf of the European Economic Community), Cuba (on behalf of the Latin American and Caribbean States), Czechoslovakia (on behalf of the States of Eastern Europe), United Arab Emirates (on behalf of the Arab States), France (on behalf of the Four Registered Pioneer investors), the Netherlands (on behalf of the Group of 6), Sweden (on behalf of the Group of 11) and Canada (on behalf of the Group of Potential Pioneer Investors).

## VIII. THE SUMMER MEETING OF THE PREPARATORY COMMISSION

62. The Preparatory Commission decided to hold its summer meeting in New York for a two-week period from 10 to 21 August 1992.

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## Annex

### UNDERSTANDING ON THE FULFILMENT OF OBLIGATIONS BY THE REGISTERED PIONEER INVESTOR, THE CHINA OCEAN MINERAL RESOURCES RESEARCH AND DEVELOPMENT ASSOCIATION (COMRA) AND ITS CERTIFYING STATE, THE PEOPLE'S REPUBLIC OF CHINA

1. This understanding applies to the registered pioneer investor, the China Ocean Mineral Resources Research and Development Association (COMRA), and to the certifying State, the People's Republic of China.

2. The pioneer investor shall provide training pursuant to paragraph 12 (a) (ii) of resolution II in conformity with the specific programme for training approved by the Preparatory Commission in accordance with the principles, policies, guidelines and procedures contained in documents LOS/PCN/SCN.2/L.6/Rev.1 and LOS/PCN/SCN.2/L.7, taking into account the report contained in document LOS/PCN/BUR/R.6. It is agreed that the cost of such training shall be borne by the registered pioneer investor and shall be free of cost to the Preparatory Commission. The precise number of trainees, the duration and the fields of training shall be agreed upon between the Preparatory Commission and the registered pioneer investor according to its capabilities. It is further agreed that the first group of trainees shall consist of no less than four individuals.

3. In accordance with paragraph 12 (a) (iii) of resolution II, the registered pioneer investor undertakes to perform the obligations prescribed in the United Nations Convention on the Law of the Sea relating to the transfer of technology, and further agrees that training in the use of all available technology shall constitute a substantial component of the training programme referred to in paragraph 2.

4. The periodic expenditures for exploration to be incurred in accordance with paragraph 7 (c) of resolution II by the registered pioneer investor in respect of the development of the pioneer area shall be determined by the Preparatory Commission in consultation with and with the cooperation of the registered pioneer investor within 12 months of the adoption of this understanding. Such expenditures shall be reviewed by the Preparatory Commission from time to time in consultation with and with the cooperation of the registered pioneer investor.

5. The certifying State agrees to provide, in accordance with paragraph 12 (b) (ii) of resolution II, periodic reports to the Commission on the pioneer activities as defined in paragraph 1 (b) of resolution II, carried out by it, by its entities or natural or juridical persons in its pioneer area. Such reports shall be provided annually.

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6. The Commission recognizes that the obligation of the certifying State under paragraph 12 (b) (i) of resolution II is to be implemented upon the entry into force for that State of the United Nations Convention on the Law of the Sea.

7. The registered pioneer investor, the China Ocean Mineral Resources Research and Development Association, will undertake, if so requested by the Preparatory Commission, a programme of exploration in accordance with the provisions of paragraph 12 (a) (i) of resolution II, of one mine site for the Enterprise in the area designated as the reserved area for the conduct of activities by the Authority.

8. The registered pioneer investor, the China Ocean Mineral Resources Research and Development Association, on the basis of the available data collected by China in the area reserved for the Authority, shall provide free of cost to the Preparatory Commission:

Computerized database disks for samples, including:

(i) The establishment of comprehensive computerized database disks for sampled stations;

(ii) Data on station number, coordinates, depth, abundance, metal content, device and information on the source of the data; allowing the raw data to be statistically manipulated and presented on various types of maps and graphs.

9. The obligation of the registered pioneer investor, the China Ocean Mineral Resources Research and Development Association, under the provisions of paragraph 7 (b) of resolution II shall be waived as of the date of the registration.

10. Within three months of the deposit of the sixtieth instrument of ratification or accession, the Group of Technical Experts established in accordance with paragraph 6 of document LOS/PCN/L.41/Rev.1, annex, shall review the state of the deep seabed mining and make an assessment of the time when commercial production may be expected to commence. If, as a result of the review and the assessment, the Group of Technical Experts concludes that commercial production will not take place for an extended period of time, the Preparatory Commission shall recommend to the Authority that the annual fixed fee payable under annex III, article 13, paragraph 3, be waived for a relevant period.

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11. Taking into account paragraph 19 (e) of the statement on the implementation of resolution II (document LOS/PCN/L.41/Rev.1, annex), paragraph 17 of LOS/PCN/L.87 annex, and this understanding, as well as the relevant characteristics and merits of each application, the Preparatory Commission or the Authority shall enter into arrangements similar to those contained in the above understandings with any other registered pioneer investor or future applicant.

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PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Tenth session
New York, 10-21 August 1992

## STATEMENT OF THE CHAIRMAN OF THE PREPARATORY COMMISSION

1. During the present session, the Plenary dealt with the following matters:

(a) Organization of work;

(b) Preparation of draft agreements, rules, regulations and procedures;

(c) Implementation of resolution II;

(d) The Training Panel;

(e) Provisional reports;

(f) Eleventh session of the Preparatory Commission.

## I. ORGANIZATION OF WORK

2. At the summer meeting of the Preparatory Commission, on the recommendation of the General Committee, the Plenary adopted on 10 August 1992 a programme of work for this meeting of the Commission which enabled all the special commissions and the Plenary on the Authority to meet. The programme was adopted on the understanding that changes would be made as circumstances required. In accordance with the decision of the Preparatory Commission, the Training Panel met during the first week simultaneously with the meeting of the Preparatory Commission.

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## II. PREPARATION OF DRAFT AGREEMENTS, RULES, REGULATIONS AND PROCEDURES

3. At its first meeting, held on 11 August 1992, at the suggestion of the Chairman, the Plenary on the Authority adopted its programme of work for the present session. According to that programme the Plenary decided to begin its work with the consideration of the pending functions of the Finance Committee and then to proceed to consider the first paragraph of article 7 on reciprocal representation which was left pending in the draft Agreement concerning the Relationship between the United Nations and the International Seabed Authority. It was agreed that subsequently the Plenary would resume its consideration of the matters related to the administrative arrangements, structure and financial implications of the International Seabed Authority. According to the programme the Plenary was supposed to conclude its work by initiating the examination of the provisional final report. To facilitate discussions on the above issues, it was decided that the Plenary would first address them at the level of the consultations of the Chairman with the interested delegations and that the results of such consultations would be subsequently submitted to the Plenary for its consideration and approval.

4. In accordance with the above programme of work, the Plenary on the Authority commenced its work at the level of consultations, with the consideration of a revised version of function 12, proposed by one delegation at the end of the previous session of the Commission at Kingston. The revised text envisaged that the Finance Committee could make recommendations to the Council and the Assembly on the rules, regulations and procedures, as proposed by the Governing Board of the Enterprise, on the transfer of funds from the Enterprise to the Authority as well as on the proposal of the Governing Board of the Enterprise concerning the portion of the net income of the Enterprise to be retained as a reserve of the Enterprise. Having discussed the proposal, participants in the consultations agreed that the Finance Committee should make such recommendations to the Assembly and the Council only upon their request. Therefore, it was decided to insert in function 12 the words "upon their request" after the words "the Council and the Assembly".

5. The delegation which at the last session had submitted a revised text of function 12 had also proposed at that session two additional functions (16 and 17) for the Finance Committee. These functions provide for the Finance Committee to make recommendations to the Council and the Assembly on the draft rules relating to the organization, management, appointment and dismissal of the staff of the Enterprise and the Authority respectively. At the consultations it was decided that those recommendations should be made by the Finance Committee only if so requested by the Assembly and the Council. Therefore, as in the case of function 12, it was agreed that the words "upon their request" should be inserted after the words "the Council and the Assembly" in the text of both new functions.

6. The next item considered at the consultations was article 7, paragraph 1, of the Relationship Agreement which was pending (LOS/PCN/WP.50/Rev.2). That article deals with the reciprocal representation of the United Nations and the

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Authority in each other's organs. Having discussed the text of article 7, paragraph 1, the participants in the consultations agreed that since the question of the participation of observers in the work of various organs of the Authority was still pending, the text of article 7, paragraph 1, should be amended by making its text more general through the deletion of the reference to particular organs of the Authority. According to this understanding, the text of article 7, paragraph 1, as amended, reads as follows:

> "Representatives of the United Nations shall be entitled to attend, and to participate, without the right to vote, in the meetings of the organs of the Authority and their subsidiary organs, in accordance with their rules of procedure, if matters of interest to the United Nations are under consideration. Written statements submitted by the United Nations shall be distributed by the Secretariat of the Authority to its members, in accordance with the rules of procedure of the organs of the Authority and of their subsidiary organs."

7. As provided for in the programme of work, during the present session the Chairman also conducted consultations with regard to the issues raised in the working paper on the administrative arrangements, structure and financial implications of the International Seabed Authority (LOS/PCN/WP.51).

8. It was agreed that the statement of the Chairman on the subject, contained in paragraph 53 of the progress report of the Chairman of the Preparatory Commission on the Work of the Commission (LOS/PCN/L.103), reflected the general agreement on the principles that should guide the work of the Authority. It was understood that details of those general principles should be worked out at an appropriate time in the future and that at such time due consideration would be given to each of the principles.

9. The results of the above consultations were reported by the Chairman to the Plenary on the Authority and were approved by it at a meeting held on 17 August 1992.

## III. IMPLEMENTATION OF RESOLUTION II

10. As had been agreed, the Chairman undertook consultations on the modalities for the implementation of the obligations of the registered pioneer investor, the Interoceanmetal Joint Organization (IOM). On 18 August 1992, the General Committee unanimously adopted the Understanding on the Fulfilment of Obligations by the Registered Pioneer Investor, the Interoceanmetal Joint Organization. The Understanding is contained in the annex to the present statement.

## IV. THE TRAINING PANEL

11. At the present session the Training Panel held nine meetings during the first week to consider, inter alia, the revised training programmes of India and the Russian Federation, to select six candidates for the traineeships under the training programmes offered by France and Japan, and to examine, if available, both the training programme of the People's Republic of China and that offered by Germany. The report of the Training Panel is contained in document LOS/PCN/BUR/R.17.

12. The revised training programmes offered by India (LOS/PCN/TP/1992/CRP.8 and Corr.1) and the Russian Federation (LOS/PCN/TP/1992/CRP.11) and a draft note verbale (LOS/PCN/BUR/R.19) announcing the six traineeships under those programmes were approved by the Panel.

13. The Panel selected six candidates for the traineeships under the training programmes offered by France and Japan, i.e., two candidates from two African countries, one candidate from one country of the Latin American and the Caribbean region and three candidates from three Asian countries. In the absence of qualified candidates for the traineeship in naval engineering offered under the French training programme, it was decided to defer that traineeship and transfer it to one in mining geology. The names of the candidates selected by the Panel and recommended for designation by the Preparatory Commission in respect of the traineeships under the training programmes offered by France and Japan are contained in document LOS/PCN/BUR/R.18. The Panel was not able to resolve the question of whether nominees from countries which are now registered pioneer investors should be considered for the training programmes offered by other registered pioneer investors. It requested the General Committee to take a decision on this matter (LOS/PCN/BUR/R.17).

14. The representative of the People's Republic of China informed the Panel that his Government's training programme would be presented at the next session at Kingston. The representative of Germany informed the Panel that his Government's training programme, offering three or four traineeships, would also be presented at that time (ibidem).

15. On 20 August 1992, the General Committee considered the report of the third meeting of the Training Panel and took note of it. It approved the recommendation and designated the six candidates selected by the Panel for the traineeships under the training programmes offered by France and Japan. The General Committee also took note of the note verbale on the training programmes offered by India and the Russian Federation.

16. On the question of whether nationals from certifying States of registered pioneer investors should be selected for training programmes offered by other registered pioneer investors, the Chairman of the Preparatory Commission informed the General Committee that he would undertake consultations on the issue at the beginning of the next session at Kingston. The Training Panel will meet during the first week of the eleventh session at Kingston.

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## V. PROVISIONAL REPORTS

17. The Preparatory Commission will hold a two-week session at Kingston to consider the provisional reports of the special commissions and of the Informal Plenary.

18. At that meeting the Chairman will undertake consultations with all the parties involved as to the future work of the Preparatory Commission, including any interim arrangements.

## VI. ELEVENTH SESSION OF THE PREPARATORY COMMISSION

19. The Chairman undertook consultations with the Chairmen of the regional groups on the dates of the eleventh session. It was decided to hold the eleventh session of the Preparatory Commission at Kingston from 22 March to 2 April 1993. It was also decided that the Training Panel will meet during the first week simultaneously with the meeting of the Preparatory Commission.

## Annex

## UNDERSTANDING ON THE FULFILMENT OF OBLIGATIONS BY THE REGISTERED PIONEER INVESTOR, THE INTEROCEANMETAL JOINT ORGANIZATION (IOM) AND ITS CERTIFYING STATES, THE REPUBLIC OF BULGARIA, THE REPUBLIC OF CUBA, THE CZECH AND SLOVAK FEDERAL REPUBLIC, THE REPUBLIC OF POLAND AND THE RUSSIAN FEDERATION

1. This understanding applies to the registered pioneer investor, the Interoceanmetal Joint Organization (IOM) and its certifying States, the Republic of Bulgaria, the Republic of Cuba, the Czech and Slovak Federal Republic, the Republic of Poland and the Russian Federation.

2. The pioneer investor shall provide training pursuant to paragraph 12 (a) (ii) of resolution II in conformity with the specific programme for training approved by the Preparatory Commission in accordance with the principles, policies, guidelines and procedures contained in documents LOS/PCN/SCN.2/L.6/Rev.1 and LOS/PCN/SCN.2/L.7, taking into account the report contained in document LOS/PCN/BUR/R.6. It is agreed that the cost of such training shall be borne by the registered pioneer investor and shall be free of cost to the Preparatory Commission. The precise number of trainees, the duration and the fields of training shall be agreed upon between the Preparatory Commission and the registered pioneer investor according to its capabilities. It is further agreed that the first group of trainees shall consist of no less than four individuals.

3. In accordance with paragraph 12 (a) (iii) of resolution II, the registered pioneer investor undertakes to perform the obligations prescribed in the United Nations Convention on the Law of the Sea relating to the transfer of technology, and further agrees that training in the use of all available technology shall constitute a substantial component of the training programme referred to in paragraph 2.

4. The periodic expenditures for exploration to be incurred in accordance with paragraph 7 (c) of resolution II by the registered pioneer investor in respect of the development of the pioneer area shall be determined by the Preparatory Commission in consultation with and with the cooperation of the registered pioneer investor within 12 months of the adoption of this understanding. Such expenditures shall be reviewed by the Preparatory Commission from time to time in consultation with and with the cooperation of the registered pioneer investor.

5. The certifying States agree to provide, in accordance with paragraph 12 (b) (ii) of resolution II, periodic reports to the Commission on the pioneer activities as defined in paragraph 1 (b) of resolution II, carried out by them, by their entities or natural or juridical persons in their pioneer area. Such reports shall be provided annually.

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6. The Commission recognizes that the obligation of the certifying States under paragraph 12 (b) (i) of resolution II is to be implemented upon the entry into force for those States of the United Nations Convention on the Law of the Sea.

7. The registered pioneer investor, the Interoceanmetal Joint Organization (IOM), will undertake, if so requested by the Preparatory Commission, a programme of exploration in accordance with the provisions of paragraph 12 (a) (i) of resolution II, of one mine site for the Enterprise in the area designated as the reserved area for the conduct of activities by the Authority.

8. The registered pioneer investor, Interoceanmetal Joint Organization (IOM), on the basis of the available data collected by it in the area reserved for the Authority, shall provide free of cost to the Preparatory Commission:

Computerized database disks for samples, including:

(i) The establishment of comprehensive computerized database disks for samples stations;

(ii) Data on station number, coordinates, depth, abundance, metal content, device and information on the source of the data; allowing the raw data to be statistically manipulated and presented on various types of maps and graphs.

9. The obligation of the registered pioneer investor, Interoceanmetal Joint Organization (IOM), under the provisions of paragraph 7 (b) of resolution II shall be waived as of the date of the registration.

10. Within three months of the date of deposit of the sixtieth instrument of ratification or accession, the Group of Technical Experts established in accordance with paragraph 6 of document LOS/PCN/L.41/Rev.1, annex, shall review the state of the deep seabed mining and make an assessment of the time when commercial production may be expected to commence. If, as a result of the review and the assessment, the Group of Technical Experts concludes that commercial production will not take place for an extended period of time, the Preparatory Commission shall recommend to the Authority that the annual fixed fee payable under annex III, article 13, paragraph 3, be waived for a relevant period.

11. Taking into account paragraph 19 (e) of the statement on the implementation of resolution II (LOS/PCN//L.41/Rev.1, annex), paragraph 17 of LOS/PCN/L.87, annex, paragraph 11 of LOS/PCN/L.102, annex, and the present understanding, as well as the relevant characteristics and merits of each application, the Preparatory Commission or the Authority shall enter into arrangements similar to those contained in the above understandings with any other registered pioneer investor or future applicant.

# UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

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PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA
Eleventh session
Kingston, Jamaica
22 March-2 April 1993

## STATEMENT OF THE CHAIRMAN OF THE PREPARATORY COMMISSION

1. During this session, the Plenary dealt with the following matters:

(a) Organization of work;

(b) Consideration of the draft provisional final report by the Informal Plenary;

(c) Implementation of resolution II;

(d) The Training Panel;

(e) Future work of the Preparatory Commission;

(f) Consideration of the draft provisional final reports of the Preparatory Commission.

### I. ORGANIZATION OF WORK

2. On 22 March 1993 the Plenary, on the recommendation of the General Committee, adopted a programme of work for the current session of the Commission which enabled all the Special Commissions and the Plenary on the Authority to meet. As in the past the programme was adopted on the understanding that changes would be made as circumstances required. In accordance with the decision of the Preparatory Commission, the Training Panel met during the first week of the current session of the Preparatory Commission.

## II. CONSIDERATION OF THE DRAFT PROVISIONAL FINAL REPORT (LOS/PCN/WP.52) BY THE INFORMAL PLENARY

3. At the eleventh session of the Preparatory Commission, the Informal Plenary held four meetings, all of which were devoted to the consideration of the draft provisional final report of the Plenary. That report contained three addenda which were circulated in documents LOS/PCN/WP.52 and LOS/PCN/WP.52/Add.1-3. Documents LOS/PCN/WP.52/Add.1 and Add.2 contain documents relevant to the implementation of resolution II of the Third United Nations Conference on the Law of the Sea. Document LOS/PCN/WP.52/Add.3 contains the draft rules of procedure for the organs of the Authority, the final draft agreements concerning the relationship of the Authority with the United Nations and with the Government of Jamaica regarding the Headquarters of the Authority, the final draft Protocol on the Privileges and Immunities of the Authority and the document on the administrative arrangements, structure and financial implications of the Authority.

4. The Informal Plenary decided that the text of its report should be divided into three parts: Introduction, Implementation of resolution II and Plenary on the Authority. The Informal Plenary proceeded to examine the report, paragraph by paragraph, and decided to make the following changes.

(i) The Introduction:

5. It was agreed that the first part of the report, entitled "Introduction", should include paragraphs 1 to 8 of the draft provisional final report. Paragraphs 58 and 59 of the present text of the report will be deleted. However, it was understood that some of the references contained in those two paragraphs, which were not mentioned in the eight introductory paragraphs, would be incorporated into the Introduction. In this regard, reference, in particular, was made to the provision of paragraph 58 stating that the issues related to the implementation of resolution II had been considered by the Preparatory Commission as a matter of high priority.

Paragraph 2, lines 1 and 2, should read:

> "2. The Third United Nations Conference on the Law of the Sea established by resolution I the Preparatory Commission for the International Seabed Authority and for the ..."

Paragraph 8 bis:

> Add the following:
>
> "The Draft Principles, Policies, Guidelines and Procedures for a Preparatory Commission Training Programme provided that the Training Panel will: (i) evaluate performance reports in the event that designated persons are selected for further training; (ii) keep the programme under review particularly with respect to established priorities, scheduling and financial implications, taking into account also the experience gained by both registered pioneer investors and trainees; and submit an annual

progress report to the Preparatory Commission on the training provided, including information on all expenditure made under the programme."

Paragraph 8 _ter_:

On 2 September 1985 the Preparatory Commission adopted a declaration on the issue of unilateral legislation stating that:

"(a) The only regime for exploration and exploitation of the Area and its resources is that established by the United Nations Convention on the Law of the Sea and related resolutions adopted by the Third United Nations Conference on the Law of the Sea.

"(b) Any claim, agreement or action regarding the Area and its resources undertaken outside the Preparatory Commission which is incompatible with the United Nations Convention on the Law of the Sea and its related resolutions shall not be recognized." (LOS/PCN/72)

(ii) Implementation of resolution II of the Third United Nations Conference on the Law of the Sea:

6. The following are the amendments made to this section:

Paragraph 9, line 5:

After expertise _insert_ the following sentence:

"It was also recognized that there was a need to ensure that the Enterprise will be provided with the funds, technology and expertise necessary to enable it to keep pace with States and other entities."

Paragraph 16, line 11:

_For_ self-selection of areas, _read_ self-selection of the pioneer areas.

Paragraph 17, lines 3 and 4 should read:

"... the Group of 10, representing the Group of 77, and the Group of 11, also known as the Friends of the Convention, as well as China."

Insert a new paragraph 22 _bis_, reading as follows:

"The procedures and mechanisms outlined in the understanding were devised in order to overcome practical difficulties in the implementation of resolution II and to facilitate the early registration of the first group of applicants as soon as possible."

Insert a new paragraph 22 _ter_, reading as follows:

"The procedures and mechanisms were essentially designed for the registration of the first group of applicants as pioneer investors under resolution II and constituted an integrated package to be implemented as a whole. They shall be respected by all concerned."

**Paragraph 25**

The first sentence of paragraph 25 will become the second sentence of paragraph 24.

**Paragraph 28**

At the end of this paragraph add the following:

"The General Committee also designated a part of the application areas to be reserved for the conduct of activities by the Authority in the Area through the Enterprise or in association with developing States."

**Paragraph 33**

At the end of the paragraph add

"... and shall be free of costs to the Preparatory Commission."

Insert a new paragraph 40 *bis*, reading as follows:

"Each registered pioneer investor participating in the activities under paragraph 7 of the understanding shall submit a comprehensive annual report to the Preparatory Commission on the type and extent of activities undertaken by it and details of expenditures incurred during that year, as well as a list of data and information gathered as a result of these activities."

Insert a new paragraph 52 *bis*, reading as follows:

"The registered pioneer investor, the China Ocean Mineral Resources Research and Development Association (COMRA), agreed to undertake a programme of exploration, in accordance with the provisions of paragraph 12 (a) (i) of resolution II, of one mine site for the Enterprise in the area designated as the reserved area for the conduct of activities by the Authority."

Paragraph 57 should read:

"In more general terms as far as resolution II is concerned, the task of the Preparatory Commission is to continue its implementation, including the monitoring of the obligations of the registered pioneer investor IFREMER/AFERNOD and its certifying State, France; of the registered pioneer investor DORD and its certifying State, Japan; of the registered pioneer investor Yuzhmorgeologiya and its certifying State, the Russian Federation; the registered pioneer investor, India; the registered pioneer investor COMRA and its certifying State, the People's Republic of China; and of the registered pioneer investor IOM and its certifying States, the Republic of

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Bulgaria, the Republic of Cuba, the Czech and Slovak Federal Republic,* the Republic of Poland and the Russian Federation. These obligations are respectively contained in the statement on the implementation of resolution II (LOS/PCN/L.41/Rev.1, annex), the understanding on the fulfilment of obligations by the registered pioneer investors and their certifying States (LOS/PCN/L.87, annex), the understanding on the fulfilment of obligations by the registered pioneer investor COMRA and its certifying State, the People's Republic of China (LOS/PCN/L.102, annex), and the understanding on the fulfilment of obligations by the registered pioneer investor IOM and its certifying States, the Republic of Bulgaria, the Republic of Cuba, the Czech and Slovak Federal Republic, the Republic of Poland and the Russian Federation (LOS/PCN/L.108, annex)."

(iii) The Plenary on the Authority

7. The Informal Plenary agreed on several drafting changes to be introduced into this part of the report.

8. It was agreed that the following new paragraphs should be inserted after paragraph 124:

"With regard to elections to the organs of the Authority the main differences of views may be summarised as follows:

"(a) Many delegations expressed the view that elections to the organs of the Authority should be treated as a matter of procedure requiring a simple majority consistent with the practice in the United Nations system and other international organizations; that the Convention was careful to provide the categories to be classified as substance and elections were not included in these categories. In any event the Convention provided that if a question arises as to whether a matter was a matter of substance or procedure the question would be treated as one of substance unless otherwise decided by the majority required for decision of election.

Other delegations contended that elections were a matter of substance and should be decided by a two-thirds majority. Some delegations maintained that certain positions, such as the President of the Council were of such importance that it was necessary to demonstrate that these office holders were supported not merely by a simple majority.

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* On 25 November 1992, the Federal Assembly of the Czech and Slovak Federal Republic adopted Constitutional Law No. 542 which terminated the existence of the Czech and Slovak Federal Republic; the Law came into force on 31 December 1992. The legal successors to the Czech and Slovak Federal Republic are two sovereign States: the Czech Republic and Slovakia. The Czech Republic and Slovakia were both admitted to membership in the United Nations on 19 January 1993.

"(b) Another matter discussed centred around elections to the Council.

Some delegations proposed that the elections should ensure that the eight largest contributors to the Administrative Budget of the Authority were elected to the Council.

Many delegations argued that such a proposal would be inconsistent with the provisions of the Convention which struck a fine balance between representation for special interests and equitable geographical representation.

"(c) Governing Board of the Enterprise

A similar proposal was made in respect of the Governing Board of the Enterprise by providing that due regard should be paid to equitable geographical distribution as well as expertise in financial fields, particularly those relevant to deep seabed mining, in such a way that eight of the members of the Governing Board shall be elected from among candidates proposed by the eight States Parties which account for the largest proportions of the sums initially made available for payment or guarantee to the Enterprise.

Many delegations were opposed to this proposal, contending that the Enterprise is an embodiment of the common heritage of mankind and that the proposal would not only be inconsistent with the Convention but give a disproportionate representation to some countries."

9. In connection with the consideration of the hard-core issues the Informal Plenary also decided that at the end of section A of part III of the report ("Preparation of draft rules of procedure for the organs of the Authority") the following three new paragraphs should be added:

"125 bis

"In the course of the consultations held during the sessions of the Preparatory Commission on the hard-core issues, different views were espoused by delegations. These are to be found in the different Statements of the Chairman of the Preparatory Commission on the work of the sessions during which they were discussed.

"125 ter

"It was felt that, notwithstanding the exhaustive discussions held on the hard-core issues, no solutions could be reached on these issues at this stage, until the practical difficulties of Part XI were to be addressed.

"125 quater

"The Chairman of the Preparatory Commission summed up the discussion on these hard-core issues by stating that further consideration would be given to them at an appropriate time. An exhaustive list of these issues is annexed to the present report as pending issues."

10. It was pointed out during the discussion of paragraph 69 of the draft provisional final report that the present text of this paragraph did not adequately reflect the outcome of the consideration of a proposal introduced by the European Economic Community (EEC) concerning participation in decision-making of an international organization. Therefore, the Informal Plenary decided that the present text of the paragraph should be replaced by the following text:

"The proposal mentioned in the preceding paragraph was extensively discussed. No solution was reached on it. It is recommended that further consideration be given to it by the Assembly of the Authority at an appropriate time."

11. In connection with the consideration of paragraphs 68 and 69 of the report, the Informal Plenary also agreed to delete the asterisk in rule 68 ("Voting rights") of the Final Draft Rules of Procedure of the Assembly of the Authority.

12. The Informal Plenary further agreed to introduce the following changes in the text of this part of the report:

(a) At the end of paragraph 62 "annex X to the present report" should be replaced by "the annex to the present report";

(b) In paragraph 65, line 1 should read: "With regard to rule 1 on the regular sessions of the Assembly, it was approved on the understanding that ...";

(c) In paragraph 76 a reference to the Finance Committee should be added;

(d) In paragraphs 63, 72, 78, 85, 114, 127, 132, 136 and 140, references to annexes should be replaced by references to the texts of the respective documents contained in addendum 3 to the report (LOS/PCN/WP.52/Add.3).

## III. IMPLEMENTATION OF RESOLUTION II

13. In accordance with paragraph 5 of the fulfilment of obligations by the registered pioneer investors and their certifying States (LOS/PCN/L.87, annex), the certifying State, France (on behalf of IFREMER/AFERNOD)), India, Japan (on behalf of Deep Ocean Resources Development Co., Ltd. (DORD)) and the Russian Federation (on behalf of Yuzhmorgeologiya) submitted periodic reports to the Preparatory Commission. These reports are contained respectively in documents LOS/PCN/BUR/R.22, LOS/PCN/BUR/R.24, LOS/PCN/BUR/R.23 and LOS/PCN/BUR/R.25. In accordance with paragraph 5 of the understanding on the fulfilment of

obligations by the registered pioneer investor, COMRA and its certifying State (LOS/PCN/L.102, annex), the People's Republic of China, submitted a periodic report on the activities of COMRA (LOS/PCN/BUR/R.20). Certain delegations suggested that in the future such reports should contain as much detailed information as possible, including information on periodic expenditures and the progress made in pioneer activities. It was recognized that it was difficult at the current stage to provide annual amounts of expenditure, which in any case would constitute imperfect parameters for assessing the effort made by the registered pioneer investors. The General Committee, having considered the reports of the certifying States, took note of them.

14. The General Committee considered the letter dated 25 March 1993 from the Coordinator of the Group of registered pioneer investors on behalf of France, Japan and the Russian Federation addressed to the Chairman of the Preparatory Commission (LOS/PCN/128). The General Committee noted the statement of the authors of the letters that account should be taken of the principle of equal treatment and of the principle of non-discrimination in the implementation of the obligations of the registered pioneer investors, as reflected in the relevant documents of the Preparatory Commission. The Chairman noted that further consideration would be given to the matter by the General Committee at its next meeting and that in this respect it would give a formal decision at that time.

## IV. THE TRAINING PANEL

15. The General Committee considered the report of the Training Panel. The Training Panel held eight meetings during the first week of the current session to, inter alia, select six candidates for the traineeships under the training programmes offered by India and the Russian Federation, to consider the training programme of China and that of the Interoceanmetal Joint Organization and its certifying States and to consider the training programme submitted by Germany.

16. The training programmes of China and the Interoceanmetal Joint Organization and its certifying States were approved by the Panel following the introduction of certain modifications. Those revised programmes are contained in documents LOS/PCN/TP/1993/CRP.13/Rev.1 and LOS/PCN/TP/CRP.12/Rev.1, respectively. The draft note verbale (LOS/PCN/BUR/R.27) announcing those programmes was also approved by the Panel.

17. The Panel selected five candidates for the traineeships under the training programmes offered by India and the Russian Federation, i.e., two candidates from two African countries, one candidate from one country from the Latin American and the Caribbean region, and two candidates from one Asian country. The names of the candidates selected and recommended for designation by the Preparatory Commission in respect of the traineeships under the training programmes of India and the Russian Federation are contained in document LOS/PCN/BUR/R.26. In the absence of a qualified candidate in chemical engineering offered under the training programme of India, it was decided to defer that traineeship and to announce it in a new note verbale. The draft note verbale which was approved by the Panel is contained in document LOS/PCN/BUR/R.28.

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18. With regard to the training programme submitted by Germany (LOS/PCN/TP/1993/CRP.15), the Panel was of the view that further details were required on the type of training to be offered and the disciplines involved. It requested that the programme be revised to conform to the format of the programmes which had already been adopted.

19. The Panel took note of a report submitted by France on the implementation of the French training programme (LOS/PCN/TP/1993/CRP.16).

20. On 31 March 1993, the General Committee considered the report of the fourth meeting of the Training Panel (LOS/PCN/BUR/R.29) and took note of it. It approved the recommendation and designated five candidates selected by the Panel for the traineeships under the training programmes offered by India and the Russian Federation. The General Committee also took note of the note verbale on the traineeships offered under the training programmes of China and the Interoceanmetal Joint Organization and its certifying States, and the note verbale on the traineeship in chemical engineering offered under the training programme of India.

21. The Chairman will consult by telephone or facsimile with the delegations concerned in order to enable the Training Panel to meet at an appropriate time.

22. The General Committee reaffirmed its decision to invite any State member or observer in the Preparatory Commission to submit candidates for the training programme. In the process of selection of trainees, however, the Training Panel should give priority to candidates presented by States members of the Preparatory Commission.

## V. FUTURE WORK OF THE PREPARATORY COMMISSION

23. The Preparatory Commission decided, in the light of the recommendation of the General Committee, on the following future programme of its work:

(a) Not to hold any more meetings in the course of this year;

(b) To make provision every year for the United Nations servicing of a two-week annual session of the Preparatory Commission, until the entry into force of the Convention;

(c) The need for the effective holding of the annual session of the Preparatory Commission will be decided by the Chairman of the Preparatory Commission in consultation with the Chairmen of the Special Commissions, the Chairmen of regional groups and interest groups. The Chairman of the Preparatory Commission will also decide, on the basis of such consultations, the precise date for such a meeting;

(d) The General Committee, acting on behalf of the Preparatory Commission as its executive organ for the implementation of resolution II, will meet for two or three days annually to consider matters related to the implementation of resolution II and to continue the monitoring of the implementation of the obligations of the registered pioneer investors.

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24. As far as possible, efforts should be made to have the meetings of the General Committee and of the Training Panel coincide with the annual meeting of the Preparatory Commission.

## VI. CONSIDERATION OF THE DRAFT PROVISIONAL FINAL REPORTS OF THE PREPARATORY COMMISSION

25. The Plenary of the Preparatory Commission received the statements of the Chairmen of the Special Commissions on the consideration of the respective draft provisional final reports that are relevant to their mandates. The Chairman of the Preparatory Commission introduced his statement on the work of the Informal Plenary on its draft provisional final report.

26. Having thus considered these statements, the Preparatory Commission decided to take note of them.

27. The Preparatory Commission decided to take note of the draft provisional final reports, as amended.

28. A revised version of these reports incorporating the amendments made thereon during this session will be prepared by the Secretariat and will be issued, at the appropriate time, as a consolidated provisional final report of the Preparatory Commission.

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PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Twelfth session
Kingston, Jamaica
7-11 February 1994

## STATEMENT OF THE CHAIRMAN OF THE PREPARATORY COMMISSION

1. During this session, the Preparatory Commission dealt with the following matters:

I. Organization of work.

II. The implementation of resolution II:

(a) Consideration of the application from the Republic of Korea for registration as a pioneer investor (LOS/PCN/134);

(b) Periodic reports of the registered pioneer investors;

(c) Consideration of the report of the Group of Technical Experts on the state of deep seabed mining and an assessment of the time when commercial production may be expected to begin (LOS/PCN/BUR/R.32);

(d) The question of relinquishment of pioneer areas (resolution II, para. 1 (e));

(e) Consideration of the letters from the coordinator of the group of registered pioneer investors (LOS/PCN/128 and LOS/PCN/131) regarding necessary adjustments concerning the system of obligations of the registered pioneer investors of France, Japan and the Russian Federation consistently with the principle of equality of treatment;

(f) The contents of the certificate of compliance;

(g) The report of the Training Panel.

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III. Matters arising from the imminent entry into force of the Convention:

(a) Preparation of the provisional agenda for the first session of the Assembly and of the Council of the Authority and, as appropriate, of recommendations relating to items thereon (resolution I, para. 5 (a));

(b) Preparation of recommendations concerning the budget for the first financial period of the Authority (resolution I, para. 5 (c));

(c) Arrangements for convening the first session of the Assembly of the Authority referred to in article 308, paragraph 3, of the Convention (resolution I, para. 5 (a));

(d) Report containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea to the meeting of States Parties to the United Nations Convention on the Law of the Sea (resolution I, para. 10);

(e) Final report on all matters within the mandate of the Preparatory Commission, except as referred to (d) above, to the Assembly of the International Seabed Authority at its first session (resolution I, para. 11).

## I. ORGANIZATION OF WORK

2. On 7 February 1994, on the recommendation of the General Committee, the plenary adopted a programme of work for this session of the Commission which provided for more meetings than hitherto for the General Committee acting as the executive organ for the implementation of resolution II. Provision was also made for formal sessions of the Plenary to deal with matters arising from the imminent entry into force of the Convention. Arrangements were made for meetings of the Training Panel to take place during the first three days of the session.

## II. THE IMPLEMENTATION OF RESOLUTION II

### A. Consideration of the application from the Republic of Korea for registration as a pioneer investor (LOS/PCN/134)

3. On 7 February 1994 the General Committee considered the application from the Republic of Korea for registration as a pioneer investor (LOS/PCN/134). Having examined this application, the General Committee decided to convene a meeting of the Group of Technical Experts to examine and report to the General Committee on the application in accordance with the provisions of LOS/PCN/L.41/Rev.1 at the next summer meeting of the Preparatory Commission (LOS/PCN/135).

### B. Periodic reports of the registered pioneer investors

4. In accordance with paragraph 5 of the understanding on the fulfilment of obligations by the registered pioneer investors and their certifying States (LOS/PCN/L.87, annex, LOS/PCN/L.102, annex, and LOS/PCN/L.108, annex) the certifying States, France on behalf of IFREMER/AFERNOD, India, Japan on behalf of Deep Ocean Resources Development Co., Ltd. (DORD), China on behalf of the China Ocean Mineral Resources Research and Development Association (COMRA) and Poland on behalf of the Interoceanmetal Joint Organization (IOM) submitted periodic reports to the Preparatory Commission. Those reports are contained respectively in documents LOS/PCN/BUR/R.31, LOS/PCN/BUR/R.34, LOS/PCN/BUR/R.35, LOS/PCN/BUR/R.33 and LOS/PCN/BUR/R.30.

5. During the discussion of this item in the General Committee certain delegations stated that it was difficult to understand the scientific terms used in the reports. It was also suggested that a more systematic format should be used for these periodic reports. In addition, the view was expressed that these reports should indicate the impact of the activities of the registered pioneer investors on the marine environment.

6. The General Committee took note of the periodic reports.

### C. Consideration of the report of the Group of Technical Experts on the state of deep seabed mining and an assessment of the time when commercial production may be expected to begin (LOS/PCN/BUR/R.32)

7. The General Committee, on 8 February 1994, considered the report of the Group of Technical Experts to the General Committee of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea (LOS/PCN/BUR/R.32). The Group of Experts was convened in accordance with the mandate contained in paragraph 12 of document LOS/PCN/L.87, annex, to review the state of deep seabed mining and make an assessment of the time when commercial production might be expected to begin.

8. The report concluded that:

> "As regards the time when commercial production may be expected to commence, the Group concludes as follows:
>
> "(a) Although the exact timing remains uncertain as a result of a variety of imponderable factors, commercial production from the deep seabed is likely at some time in the future because deep seabed resources constitute potential commercial prospects primarily on account of: (a) the vastness of resources; (b) the multi-metal characteristics of the ore; and (c) the absence of insurmountable technological obstacles in the mining or processing of these resources;
>
> "(b) It is, however, certain that commercial deep seabed mining will not take place during the remainder of the current decade (up to the year 2000);

/...

"(c) It is also unlikely that commercial deep seabed mining will take place during the following decade (2001-2010);

"(d) An assessment of the time when commercial production from deep seabed mining may be expected to commence can be made with further precision when in the future large-scale feasibility studies and deep-sea tests for a sustained period are undertaken." (LOS/PCN/BUR/R.32, para. 57).

9. It was the general view that the report provided sound guidelines for future action with respect to deep seabed mining. Attention was drawn to the importance the Group of Experts attached to the protection of the environment with regard to deep seabed mining activities. It was also noted that, given the unpredictability of the factors which could affect the timing of deep seabed developments, it would be prudent to adopt time frames enabling the situation to be reviewed from time to time.

10. The General Committee took note of the report.

### D. The question of relinquishment of pioneer areas (resolution II, para. 1 (e))

11. On 7 February the General Committee took up the question of relinquishment of pioneer areas.

12. Under resolution II the pioneer investor is under an obligation to relinquish portions of the pioneer area to revert to the Area in accordance with the schedule contained in paragraph 1 (e) of that resolution. India, which became a registered pioneer investor on 17 August 1987, was due to relinquish 20 per cent of its allocated area by 17 August 1990 and a further 10 per cent of the area allocated by 17 August 1992. COMRA (China), which became a registered pioneer investor on 5 March 1991, is due to relinquish 20 per cent of its allocated area by 5 March 1994. IOM, registered on 21 August 1991, is due to relinquish 20 per cent of its allocated area by 21 August 1994.

13. India pointed out that the understanding on the fulfilment of its obligations had been reached in August 1990. From that date India has been complying with the obligations. A plan of relinquishment of 20 per cent of the area has already been finalized and the matter is under consideration by the Government. The relinquishment of 20 per cent of the area will be notified as soon as a decision in the matter is taken by the Government.

14. China reported that in 1993 its research vessel R/V Xiangyanghong 16, which was assigned to undertake exploration of approximately 40,000 square kilometres within the pioneer area, had been hit by a foreign ship and had sunk. As a result of this event China has had to postpone its arrangements to comply with the prescribed schedule for the relinquishment of areas. In 1994 China will intensify exploration activities at sea. It is China's intention to relinquish 30 per cent of the allocated area at the end of the fifth year in accordance with paragraph 1 (e) of resolution II.

15. The General Committee agreed that final decisions with respect to relinquishment of areas will be taken at the next meeting of the Preparatory Commission.

## E. Consideration of the letters from the coordinator of the group of registered pioneer investors (LOS/PCN/128 and LOS/PCN/131) regarding necessary adjustments concerning the system of obligations of the registered pioneer investors of France, Japan and the Russian Federation consistently with the principle of equality of treatment

16. The General Committee considered the letters dated 25 March 1993 and 1 October 1993 (LOS/PCN/128 and LOS/PCN/131) respectively from the coordinator of the group of registered pioneer investors on behalf of France, Japan and the Russian Federation addressed to the Chairman of the Preparatory Commission requesting the General Committee to carry out "necessary adjustments concerning the system of obligations of the registered pioneer investors of France, Japan and the Russian Federation consistently with the principle of equality of treatment" (LOS/PCN/131). The General Committee has begun consideration of this request. It is of the view that the issue needs further consideration.

17. The Chairman intends to hold a series of consultations on this issue. These consultations will be undertaken, taking into consideration the principle of equality of treatment, the provisions of paragraph 40 (a) of document LOS/PCN/L.87 and developments in the Secretary-General's informal consultations.

18. The General Committee considered the issues relating to the waiver of the annual fixed fee payable under Annex III, article 13, paragraph 3, in the light of the conclusions of the Group of Technical Experts contained in paragraph 57 of its report (LOS/PCN/BUR/R.32) and the decision of the Preparatory Commission embodied in LOS/PCN/L.87, annex, paragraph 12. The representative of the Russian Federation introduced a proposal regarding a decision by the General Committee on the issue of the annual fixed fee and the extension from six months to 10 years of the period within which a plan of work for exploration should be submitted (LOS/PCN/BUR/R.38). He noted that failure by the Preparatory Commission to adopt that decision would mean a violation of previous Preparatory Commission decisions contained in documents LOS/PCN/L.87 and LOS/PCN/L.113/Rev.1. Further consideration will be given to this issue at the summer meeting of the Preparatory Commission to determine the relevant period for which the waiver will be made.

## F. The contents of the certificate of compliance

19. The General Committee requested the Secretariat to prepare a draft certificate of compliance relating to the obligations of the registered pioneer investors under resolution II and the related understandings which will be submitted to the Preparatory Commission at its next meeting.

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### G. The report of the Training Panel

20. The Training Panel held its 5th meeting from 7 to 9 February 1994. Its report is contained in document LOS/PCN/BUR/R.37.

21. The Panel selected nine candidates for the training programmes offered by China and the Interoceanmetal Joint Organization and for the traineeship in chemical engineering offered under the training programme of India. The names of the candidates selected by the Panel and recommended for designation by the Preparatory Commission in respect of the above training programmes are contained in document LOS/PCN/BUR/R.36. The Panel took note of the progress reports submitted by France, Japan, India and the Russian Federation on the implementation of their training programmes; approved the training programme submitted by Germany; received information on the training programme of the International Ocean Institute; and approved the format of the training certificates to be issued by the Preparatory Commission to the trainees. The Panel also discussed the implications of the entry into force of the United Nations Convention on the Law of the Sea for the Preparatory Commission Training Programme. The Training Panel will be submitting its final report to the General Committee at the forthcoming summer meeting in New York.

22. On 11 February 1994, the General Committee considered the report of the 5th meeting of the Training Panel and took note of it. The General Committee endorsed the recommendation of the Panel that the selected candidates be designated by the Preparatory Commission for the traineeships offered under the training programme of China; for the three traineeships in geophysics and one traineeship in metallurgical engineering offered under the training programme of the Interoceanmetal Joint Organization; and for the traineeship in chemical engineering offered under the training programme of India.

## III. MATTERS ARISING FROM THE IMMINENT ENTRY INTO FORCE OF THE CONVENTION

### A. Preparation of the provisional agenda for the first session of the Assembly and of the Council of the Authority and, as appropriate, of recommendations relating to items thereon (resolution I, para. 5 (*a*))

23. At its 76th meeting, held on 8 February 1994, the Plenary considered this item of its agenda. The Chairman suggested a series of items to be included in the provisional agenda for the first session of the Assembly of the International Seabed Authority.

24. During the discussion of these items it was pointed out that, before electing the members of the Council, the Assembly has to establish a list of countries fulfilling the criteria for membership in the various categories. Therefore, it was suggested that an item entitled "Matters related to the election of the members of the Council" should precede the item "Election of the members of the Council".

25. Having considered this item of its agenda, the Plenary decided to request the Secretariat to prepare for the next meeting of the Preparatory Commission, on the basis of the proposal made by the Chairman and taking into account the views expressed during the debate, the draft provisional agenda for the first session of the Assembly and of the Council of the International Seabed Authority.

### B. Preparation of recommendations concerning the budget for the first financial period of the Authority (resolution I, para. 5 (c))

26. With regard to the issue of the budget for the first financial period of the Authority, the Chairman drew the attention of the Plenary to the background paper on this subject prepared by the Secretariat and circulated in document LOS/PCN/WP.51. This paper is entitled "Administrative Arrangements, Structure and Financial Implications of the International Seabed Authority". The Chairman noted that although the paper could be used by the Secretariat as a basis in preparing concrete recommendations for the next meeting of the Preparatory Commission, the Secretariat should be given additional guidance and more precise instructions regarding budgetary requirements of the Authority, its secretariat structure and the number of meetings of the organs of the Authority.

27. In the preparation of the draft budget the Secretariat will include recommendations concerning the secretariat of the Authority, as required under resolution I, paragraph 5 (e).

28. It was also noted that at the Secretary-General's informal consultations on outstanding issues relating to the deep seabed mining provisions of the United Nations Convention on the Law of the Sea, its participants continued to consider options directed towards ensuring the cost-effectiveness of the Authority without sacrificing its efficiency. Therefore, in preparing concrete recommendations for the next meeting of the Preparatory Commission, the Secretariat should take into account what might emerge from those consultations regarding the issue of costs to States parties to the Convention and institutional arrangements.

29. It was reiterated during the debate that the Authority should be both cost-effective and efficient. It was pointed out in this regard that the questions of structure and budget should be analysed against the functions to be performed by the Authority. The attention of the Plenary was drawn to the fact that the Authority would not be cost-effective and efficient unless it was capable of discharging its functions effectively.

30. With reference to the issue of structure, a suggestion was made that the secretariat of the Authority should probably consist of several divisions which would be responsible, inter alia, for such activities as research and planning, monitoring, preparation of rules and regulations, finances and administration, legal matters and, as far as the Enterprise is concerned, implementation of joint venture arrangements.

31. In connection with the Enterprise, reference was also made to document LOS/PCN/SCN.2/1990/CRP.5 entitled "Suggestions of the Chairman to facilitate discussion of transitional arrangements for the Enterprise".

32. At the suggestion of the Chairman, the Plenary agreed that the Secretariat would prepare for the next meeting of the Preparatory Commission the draft budget for the first financial period of the Authority, which would be based on the background paper LOS/PCN/WP.51 and would take into account statements made during the consideration of this item.

### C. Arrangements for convening the first session of the Assembly of the Authority referred to in article 308, paragraph 3, of the Convention (resolution I, para. 5 (a))

33. With reference to this item, the Chairman advised the Plenary that the Preparatory Commission should address such issues as the opening date of the first session, its duration and the servicing of the session.

34. In accordance with article 308, paragraph 3, of the United Nations Convention on the Law of the Sea, the Assembly shall meet on the date of the entry into force of the Convention - 16 November 1994.

35. In view of the fact that 16 November 1994 coincides with a busy period in the work of the General Assembly of the United Nations, some delegations believed that for practical reasons it would not be possible to hold a long session of the Assembly of the Authority during the regular session of the United Nations General Assembly. It was suggested that perhaps a one-day meeting of States Parties to the Convention should be convened on 16 November 1994 in New York in order to take a decision to postpone the date of the first session of the Assembly until some time during the early part of 1995. This inaugural session of the Assembly will be held at the seat of the Authority in Jamaica.

36. Some delegations were of the view that there was no legal basis for the postponement of the first session of the Assembly, since article 308, paragraph 3, stipulated that the Assembly of the Authority shall meet on the date of entry into force of the Convention. In this regard they also referred to article 159, paragraph 3, which provided that the sessions of the Assembly shall take place at the seat of the Authority, namely, in Jamaica. Therefore, they proposed that a short opening meeting of the Assembly should be held in Jamaica.

37. The Russian Federation noted that, according to the provisions of the Convention (art. 171, subpara. (a), *inter alia*), the budget of the Authority consisted of contributions from States Parties; that excluded the possibility of financing the Authority from the United Nations budget and using the United Nations Secretariat. The decision on the financing of the Preparatory Commission in accordance with resolution I could not automatically be extended to the activity of the Authority, including the holding of the first session of its Assembly.

38. The view was also expressed that the whole question of the financing of the Authority was subject to decisions that would be taken in the light of the ongoing informal consultations held under the auspices of the Secretary-General of the United Nations.

39. The Plenary decided to continue consideration of the item dealing with the arrangements for convening the first session of the Assembly at its next meeting.

### D. Report containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea to the meeting of the States Parties to the United Nations Convention on the Law of the Sea (resolution I, para. 10)

40. The Plenary considered this item at its 77th meeting, held on 10 February 1994.

41. At the suggestion of the Chairman the Plenary requested the Secretariat to prepare for the next meeting of the Preparatory Commission a draft report regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea, which the Preparatory Commission has to submit under the provisions of paragraph 10 of resolution I to the meeting of the States Parties to be convened in accordance with Annex VI, article 4, of the Convention on the Law of the Sea.

42. In response to an inquiry, the Chairman informed the members of the Preparatory Commission that at this session he had started consultations, which he would continue during the inter-sessional period, regarding costs of the Tribunal and the issue of ensuring the representation in the Tribunal of the principal legal systems of the world and equitable geographical distribution. He added that the results of these consultations would be submitted to the members of the Preparatory Commission at its next meeting so that the Commission could consider recommendations which it might wish to make in this regard to the meeting of the States Parties.

### E. Final report on all matters within the mandate of the Preparatory Commission, except as referred to in section D above, to the Assembly of the International Seabed Authority at its first session (resolution I, para. 11)

43. Under resolution I, paragraph 11, the Preparatory Commission has to prepare a final report on all matters within its mandate, except as provided in paragraph 10 of that resolution, to the Assembly at its first session. The Preparatory Commission has already adopted a provisional final report. The Secretariat is requested to prepare a draft final report which will consist of the provisional final report supplemented by any further decisions which may be taken by the Preparatory Commission.

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## IV. SUMMER MEETING OF THE PREPARATORY COMMISSION

44. The Preparatory Commission will hold its summer meeting in New York from 1 to 12 August 1994.

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TRIBUNAL FOR THE LAW OF THE SEA
New York, 1-12 August 1994

## STATEMENT BY THE CHAIRMAN OF THE PREPARATORY COMMISSION

1. During this session, the plenary dealt with the following matters:

   I. Organization of work;

   II. Implementation of resolution II:

      A. Relinquishment of pioneer areas (resolution II, para. 1 (e));

      B. Periodic reports;

      C. Compliance with paragraph 8 of the Understanding on the fulfilment of obligations by the registered pioneer investor, Interoceanmetal Joint Organization (IOM), and its certifying States;

      D. Periodic expenditures;

      E. Waiver of the annual fixed fee and the obligation of the three registered pioneer investors and of their certifying States to carry out stage I of the exploration work;

      F. Consideration of the report of the Group of Technical Experts to the General Committee on the application of the Government of the Republic of Korea for registration as a pioneer investor (LOS/PCN/BUR/R.40);

      G. Certificate of compliance;

/...

III. Matters arising from the imminent entry into force of the Convention:

A. Consideration of the provisional agenda for the first session of the Assembly and of the Council of the Authority and, as appropriate, of recommendations relating to items thereon (LOS/PCN/139 and LOS/PCN/140);

B. Final report of the Training Panel;

C. Consideration of the budget for the first financial period of the International Seabed Authority (LOS/PCN/141);

D. Date of the first session of the Assembly of the Authority;

E. Report containing recommendations for submission to the meeting of the States Parties to be convened in accordance with annex VI, article 4, of the Convention regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea;

F. Final report on all matters within the mandate of the Preparatory Commission, except as referred to in section E, to the Assembly of the International Seabed Authority at its first session.

## I. ORGANIZATION OF WORK

2. On 1 August 1994, on the recommendation of the General Committee, the plenary adopted a programme of work for the present meeting of the Commission which provided for more meetings than hitherto for the General Committee acting as the executive organ for the implementation of resolution II. Provision was also made for formal sessions of the plenary to deal with matters arising from the imminent entry into force of the Convention. Arrangements were made for the Training Panel to meet simultaneously with the Preparatory Commission during the first week of the meeting of the Preparatory Commission.

## II. IMPLEMENTATION OF RESOLUTION II

### A. Relinquishment of pioneer areas (resolution II, para. 1 (e))

3. On 8 August 1994, the General Committee took up the question of relinquishment of pioneer areas.

4. In accordance with the provisions on relinquishment in resolution II, paragraph 1 (e), the delegation of India notified the General Committee, on behalf of the Government of India, that 20 per cent of the pioneer area (30,000 square kilometres) had been relinquished. The area relinquished was that bounded by the lines joining the turning points and the geographical coordinates indicated in the schedule annexed to document LOS/PCN/BUR/R.44.

5. The delegation of Poland, on behalf of the registered pioneer investor, IOM, and its certifying States, notified the General Committee that, in accordance with the schedule established in resolution II, paragraph 1 (e) (i), IOM had relinquished 20 per cent of the pioneer area that was situated in the southern part of the pioneer area and adjoined the area reserved for the Authority. The relinquished area measured 30,672 square kilometres, or 20.45 per cent of the pioneer area (LOS/PCN/BUR/R.45).

6. The General Committee took note of the notification of relinquishment of pioneer areas by the registered pioneer investors, the Government of India and IOM.

7. The General Committee recommended to the International Seabed Authority that the Council should continue monitoring the relinquishment of areas by the registered pioneer investors.

8. At the twelfth session of the Preparatory Commission, held at Kingston from 7 to 11 February 1994, China had reported the sinking of its research vessel R/V Xiangyanghong 16. As a consequence China had to postpone its arrangements to comply with the prescribed schedule for the relinquishment of areas (LOS/PCN/L.114/Rev.1, para. 14). China reiterated its intention to relinquish 30 per cent of the allocated area at the end of the fifth year in accordance with resolution II, paragraph 1 (e).

## B. Periodic reports

9. In accordance with paragraph 5 of the fulfilment of obligations (LOS/PCN/L.87, annex), the delegation of the Russian Federation submitted to the General Committee a periodic report on the activities of the registered pioneer investor, Yuzhmorgeologiya, covering the period from 1 January 1993 to 1 August 1994 (LOS/PCN/BUR/R.43).

10. The General Committee took note of the report.

## C. Compliance with paragraph 8 of the Understanding on the fulfilment of obligations by the registered pioneer investor, Interoceanmetal Joint Organization, and its certifying States

11. In accordance with paragraph 8 of the understanding on the fulfilment of obligations by the registered pioneer investor IOM and its certifying States (LOS/PCN/L.108, annex), on the basis of the available data collected by it in the area reserved for the Authority, IOM shall provide free of cost to the Preparatory Commission:

"Computerized database disks for samples, including:

"(i) The establishment of comprehensive computerized database disks for samples stations;

"(ii) Data on station number, coordinates, depth, abundance, metal content, device and information on the source of the data; allowing the raw data to be statistically manipulated and presented on various types of maps and graphs."

12. In accordance with that paragraph, the delegation of Poland, on behalf of IOM, informed the General Committee that a preliminary report containing the required data had been submitted to the Secretary-General (LOS/PCN/BUR/R.46).

13. During the consideration of that matter, it was pointed out that members of the General Committee ought to have been provided with more information regarding the report. Further information was provided in document LOS/PCN/BUR/R.49. The General Committee took note of the report.

## D. Periodic expenditures

14. Questions were raised regarding the periodic expenditures referred to in document LOS/PCN/L.87, annex, paragraph 4; document LOS/PCN/L.102, annex, paragraph 4; and document LOS/PCN/L.108, annex, paragraph 4. Under those paragraphs the periodic expenditures to be incurred in respect of the development of the respective pioneer areas were to be determined by the Preparatory Commission in consultation with and with the cooperation of each registered pioneer investor within 12 months of the adoption of the understanding.

15. It was noted that the Preparatory Commission had not determined amounts of periodic expenditures. The Commission had recognized that it was difficult at that stage to provide annual accounts of expenditures (LOS/PCN/L.113/Rev.1, para. 13).

## E. Waiver of the annual fixed fee and the obligation of the three registered pioneer investors and of their certifying States to carry out stage I of the exploration work

16. The General Committee considered the issues relating to the waiver of the annual fixed fee payable under annex III, article 13, paragraph 3, in the light of the conclusions of the Group of Technical Experts contained in paragraph 57 of its report (LOS/PCN/BUR/R.32) and the decision of the Preparatory Commission embodied in document LOS/PCN/L.87, annex, paragraph 12, and decided to recommend to the Authority that the annual fixed fee payable by the registered pioneer investors upon entry into force of the Convention should be waived in a manner consistent with section 8, paragraph 2, of the annex to the Agreement on the Implementation of Part XI of the United Nations Convention on the Law the Sea of 10 December 1982.

17. The General Committee also decided to waive the annual fixed fee of US$ 1 million provided for in resolution II, paragraph 7 (b), as of the date of registration and also referred to in document LOS/PCN/L.87, annex, paragraph 10. Notwithstanding the foregoing, the General Committee considered the obligation

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of the three registered pioneer investors, Institut Français de Recherche pour l'Exploitation de la Mer (IFREMER/AFERNOD), Deep Ocean Resources Development Co. Ltd. (DORD), Yuzhmorgeologiya, and of their certifying States, France, Japan and the Russian Federation, to carry out stage I of the exploration work referred to in document LOS/PCN/L.87, annex, paragraphs 7 and 8. It decided, without prejudice to the understanding on stage II contained in document LOS/PCN/L.87, annex, paragraph 9, that the performance of the obligation should be deferred until the Legal and Technical Commission determined that substantial exploration work was being carried out by any contractor, unless the Council decided, at the request of any registered pioneer investor, to make adjustments in accordance with paragraph 40 (a) of document LOS/PCN/L.87 and section I, paragraph 6 (a) (iii), of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982.

### F. Consideration of the report of the Group of Technical Experts to the General Committee on the application of the Government of the Republic of Korea for registration as a pioneer investor (LOS/PCN/BUR/R.40)

18. On 2 August 1994, the General Committee registered the Government of the Republic of Korea as a pioneer investor.

19. On 12 August 1994, the General Committee adopted an understanding on the fulfilment of obligations by the registered pioneer investor, the Government of the Republic of Korea, and its certifying State, the Republic of Korea. That understanding is annexed to the present report. It was noted that the insertion of a provision on relinquishment of areas in this understanding did not mean that any additional obligations were imposed on the registered pioneer investor, the Government of the Republic of Korea, as compared with other registered pioneer investors.

### G. Certificate of compliance

20. The General Committee agreed that, in accordance with resolution II, paragraph 11, each registered pioneer investor shall be provided with a certificate of compliance. Each certificate shall read as follows:

> "The Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea hereby certifies that ... has complied with the obligations under resolution II and the related understandings and decisions of the Preparatory Commission to the extent indicated in the relevant parts of the annexed report."

21. There will be annexed to each certificate a revised version of the report on the status of the implementation of the obligations of the registered pioneer investors under resolution II and the related understandings (LOS/PCN/BUR/INF/R.12), supplemented by documents LOS/PCN/BUR/R.43, LOS/PCN/BUR/R.44, LOS/PCN/BUR/R.45 and LOS/PCN/BUR/R.46 and other relevant documents. This document will be issued under the symbol LOS/PCN/144.

## III. MATTERS ARISING FROM THE IMMINENT ENTRY INTO FORCE OF THE CONVENTION

### A. Consideration of the provisional agenda for the first session of the Assembly and of the Council of the Authority and, as appropriate, of recommendations relating to items thereon (LOS/PCN/139 and LOS/PCN/140)

22. At its 80th meeting, on 1 August 1994, the plenary considered the provisional agenda for the first session of the Assembly (LOS/PCN/139), and the provisional agenda of the Council (LOS/PCN/140).

### 1. Provisional agenda of the first session of the Assembly

23. The provisional agenda for the first session of the International Seabed Authority as contained in document LOS/PCN/139 was discussed paragraph by paragraph and the plenary agreed on the following provisional agenda:

1. Opening of the session by the temporary Chairman.
2. Adoption of the rules of procedure.
3. Election of the President.
4. Adoption of the agenda.
5. Election of the Vice-Presidents.
6. Matters relating to the election of the members of the Council for the International Seabed Authority.
7. Election of the members of the Council.
8. Election of the members of the Finance Committee.
9. Appointment of the Credentials Committee.
10. Presentation of the final report of the Preparatory Commission.
11. Discussion on those sections of the final report on matters relating to the Authority that the Assembly may decide to consider, including the draft Agreement between the International Seabed Authority and the Government of Jamaica regarding the Headquarters of the International Seabed Authority; the draft Protocol on Privileges and Immunities of the International Seabed Authority; and the Draft Agreement concerning the relationship between the United Nations and the International Seabed Authority.
12. Appointment of the Secretary-General of the Authority, as soon as the list of candidates for the election of the Secretary-General is proposed to the Assembly by the Council.

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13. **Consideration of the following:**

    (a) **Follow-up of the decisions taken by the Preparatory Commission on the implementation of resolution II;**

    (b) **Transfer of the property and records of the Preparatory Commission to the Authority;**

    (c) **Provisional budget and financial organization;**

    (d) **Follow-up of the training programme;**

    (e) **Organization of the secretariat.**

14. **Date of the second session of the Assembly.**

15. **Other matters.**

24. During those discussions it was pointed out that with respect to item 13 (c), provisional budget and financial organization, account must be taken of section 2, paragraph 14, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 which provided for an interim period when the Authority would be funded by the United Nations. Thus, the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee would necessarily have a role to play with regard to the funding of the Authority in the initial period.

### 2. Provisional agenda of the first session of the Council

25. After an examination of the provisional agenda for the Council contained in document LOS/PCN/140, the Plenary agreed upon the following provisional agenda:

1. Opening of the session by the temporary Chairman.

2. Adoption of the rules of procedure.

3. Election of the President.

4. Election of the Vice-Presidents.

5. Adoption of the agenda.

6. Election of the members of the Finance Committee.

7. Drawing up of a list of candidates to be proposed to the Assembly for the election of the Secretary-General of the Authority.

8. Consideration of the following:

(a) Follow-up of the decisions taken by the Preparatory Commission on the implementation of resolution II;

(b) Follow-up of the training programme;

(c) Organization of the secretariat;

(d) Provisional budget and financial organization;

(e) The draft Agreement concerning the relationship between the United Nations and the International Seabed Authority.

9. Consideration, with a view to adoption, of the rules, regulations and procedures necessary for the conduct of activities in the Area as they progress and of rules, regulations and procedures incorporating applicable standards for the protection and preservation of the marine environment.

10. Consideration of applications for approval of plans of work.

11. Other matters.

26. The plenary recognized that the first part of the first session of the Assembly would be of a purely ceremonial nature and would deal with item 1 of the provisional agenda of the first session of the Assembly and general statements. Further substantive items would be taken up in the resumed first session. The plenary also noted that the session could be used for informal consultations on items of the provisional agenda relating to elections.

## B. Final report of the Training Panel

27. The Training Panel held its sixth and last session on 1, 2 and 5 August 1994. The report of the sixth session and the final report of the Training Panel to the General Committee are contained in documents LOS/PCN/BUR/R.47 and R.48, respectively.

28. Following an evaluation of the training received by Mr. Kohpina, Mr. Hwang and Mr. Mohammad-Taheri under the training programme of Japan, and the training received by Mr. Braham under the training programme of France, the Panel established, on the basis of the reports presented, that the training had been carried out in accordance with the programmes that had been approved by the Panel and therefore recommended to the Preparatory Commission the issuance of training certificates to those four trainees.

29. The Panel took note of the reports presented by the Russian Federation and India on the successful completion of the traineeships by the two trainees who had received training under the training programme of the Russian Federation, and by two of the three trainees who had received training under the training programme of India. It decided that in the absence of the reports by the trainees on the training they had received in the Russian Federation, and the report of the Department of Ocean Development on the trainees who had received

training in India, it could not proceed with an evaluation of the training received under the training programmes of the Russian Federation and India. The Panel was informed that the third trainee who had been selected for the training programme of India would commence his training in October 1994. The Panel also took note of the reports presented by France and China on the trainees who were currently undergoing training. The Panel was informed that the four trainees selected for the IOM training programme would commence their training on 28 October 1994.

30. The Panel received information on the training programme of the International Ocean Institute. It also received an offer of training by the Intergovernmental Oceanographic Commission.

31. The Training Panel adopted its final report to the General Committee on 5 August 1994.

32. In presenting the reports of the Panel to the meeting of the General Committee, on 9 August 1994, the Chairman of the Panel stated that in addition to the recommendations contained in chapter III of the final report, and in accordance with the principles, policies, guidelines and procedures for a Preparatory Commission Training Programme (LOS/PCN/SCN.2/L.6/Rev.1), the Panel also recommended that in the selection of staff for the Authority, priority should be given to the trainees who had completed their training.

33. The General Committee considered and took note of the report of the sixth session of the Panel. It endorsed the recommendation of the Panel that the Preparatory Commission issue training certificates to Mr. Kohpina, Mr. Hwang, Mr. Mohammad-Taheri and Mr. Braham.

34. The General Committee also considered and took note of the final report of the Panel. It decided to entrust to the Council the question of the follow-up of the training programmes, in particular the issues which the Panel had identified as outstanding and the recommendations it had made thereon.

### C. Consideration of the budget for the first financial period of the International Seabed Authority (LOS/PCN/141)

35. The Preparatory Commission decided to recommend to the General Assembly that it approve the draft budget for the International Seabed Authority only for the period 1994-1995 as contained in LOS/PCN/143. In doing so the Preparatory Commission noted that the draft budget was premised on the assumption that the activities of the Authority in 1994-1995 would relate in large measure to the establishment and internal administration of the Authority. The Preparatory Commission noted that, in the preparation of a draft budget for 1996, the Secretary-General of the Authority would need to consider the substantive functions of the Authority in relation to the anticipated level of activities in the Area.

36. The Russian Federation noted that the draft budget of the Authority for the years 1994-1995 did not reflect the principle of cost effectiveness as specified

in the Agreement relating to the Implementation of Part XI of the Convention. Accordingly, it reserved its position with respect to the draft budget.

37. Jamaica stated that the above decisions of the Preparatory Commission was predicated on the assumption that the activities of the Authority from November 1994 to December 1995 would be concerned with its internal administration. From 1996 the Authority would need to consider its substantive activities as the functions of the Authority required.

### D. Date of the first session of the Assembly of the Authority

38. The first part of the first session of the Assembly of the Authority will be held from 16 to 18 November 1994; the second part will be held from 27 February to 17 March 1995; and the third part will be held from 7 to 18 August 1995.

### E. Report containing recommendations for submission to the meeting of the States Parties to be convened in accordance with annex VI, article 4, of the Convention regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea

39. The Preparatory Commission decided that the report to the States Parties would comprise:

(a) The main report in chapter V, pages 100-114, of document LOS/PCN/130, which will be excised from that document;

(b) Addenda to that report, contained in the addenda to document LOS/PCN/SCN.4/WP.16;

(c) The background documentation of Special Commission 4, annexed to the report; those documents are listed in document LOS/PCN/130/Add.1, volume VI, parts one to four;

(d) Draft budget for the first financial period of the International Tribunal for the Law of the Sea (LOS/PCN/142).

40. The draft budget for the first financial period of the International Tribunal for the Law of the Sea was not considered by the Preparatory Commission owing to constraints of time. It was decided that it should be considered at the meeting of the States Parties.

41. The Preparatory Commission also decided to transmit the recommendations approved at the current meeting (contained in para. 43 below) to the meeting of the States Parties.

42. The Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea took note of General Assembly resolution 48/263 of 28 July 1994 and the opening for signature of the Agreement

relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982.

43. Bearing in mind the desire to achieve universal participation in the Convention and the provisions of annex VI, articles 2 and 3, the Preparatory Commission recommended to the States Parties the following procedural arrangements for the organization of the Tribunal:

(a) An ad hoc meeting of the States Parties to the Convention should be convened as soon as possible after the date of its entry into force and in any case before the end of 1994 in order to discuss the organization of the Tribunal. The Preparatory Commission requested the Secretary-General of the United Nations, as the depositary of the Convention, to convene the meeting;

(b) The States Parties should, at that meeting, consider the possibility of a one-time deferment of the first election of the members of the Tribunal of a length to be decided by them;

(c) In the event of a deferment, the meeting of the States Parties should request the Secretary-General of the United Nations to address written invitations to the States Parties to submit their nominations for members of the Tribunal (annex VI, article 4 (2)) at least three months before the date fixed by the ad hoc meeting of States Parties for the first election;

(d) The Secretary-General should be requested to designate a United Nations staff member as Acting Registrar of the Tribunal before 16 May 1995, charged with making preparations of a practical nature for the organization of the Tribunal, including the establishment of a library;

(e) States should continue consultations on the organization of the Tribunal.

## F. Final report on all matters within the mandate of the Preparatory Commission, except as referred to in section E above, to the Assembly of the International Seabed Authority at its first session

44. Under resolution I, paragraph 11, the Preparatory Commission has to prepare a final report on all matters within its mandate, except as provided in paragraph 10 of that resolution, to the Assembly at its first session. The Preparatory Commission has already adopted its provisional final report. The Preparatory Commission decided to consider as its final report the provisional final report on all matters within its mandate, except as provided in paragraph 10 of resolution I, supplemented by any further reports and recommendations which the Preparatory Commission has adopted.

45. The delegation of the Russian Federation repeated its reservations already made on the matter and expressed its regrets that a number of issues remained unresolved.

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46. The Preparatory Commission took note of the request contained in paragraph 13 of General Assembly resolution 48/263 and decided, in the light of the fact that it had had insufficient time to revise the contents of its provisional final report, to recommend to the Authority that it should take into account the terms of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 in the consideration of the recommendations and the report of the Preparatory Commission in order to ensure consistency as necessary.

## ANNEX

## Understanding on the fulfilment of obligations by the registered pioneer investor, the Government of the Republic of Korea, and its certifying State, the Republic of Korea

1. This understanding applies to the registered pioneer investor, the Government of the Republic of Korea, and its certifying State, the Republic of Korea.

2. The pioneer investor shall provide training pursuant to resolution II, paragraph 12 (a) (ii), in conformity with the specific programme for training approved by the Preparatory Commission in accordance with the principles, policies, guidelines and procedures contained in documents LOS/PCN/SCN.2/L.6/Rev.1 and LOS/PCN/SCN.2/L.7, taking into account the report contained in document LOS/PCN/BUR/R.6. It is agreed that the cost of such training shall be borne by the registered pioneer investor and shall be free of cost to the Preparatory Commission. The precise number of trainees, the duration and the fields of training shall be agreed upon between the Preparatory Commission and the registered pioneer investor according to its capabilities. It is further agreed that the first group of trainees shall consist of no less than four individuals.

3. In accordance with resolution II, paragraph 12 (a) (iii), the registered pioneer investor undertakes to perform the obligations prescribed in the United Nations Convention on the Law of the Sea and the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the transfer of technology, and further agrees that training in the use of all available technology shall constitute a substantial component of the training programme referred to in paragraph 2.

4. The periodic expenditures for exploration to be incurred in accordance with resolution II, paragraph 7 (c), by the registered pioneer investor in respect of the development of the pioneer area shall be determined by the Preparatory Commission in consultation with and with the cooperation of the registered pioneer investor within 12 months of the adoption of this understanding. Such expenditures shall be reviewed by the Preparatory Commission from time to time in consultation with and with the cooperation of the registered pioneer investor.

5. The certifying State agrees to provide, in accordance with resolution II, paragraph 12 (b) (ii), periodic reports to the Commission on the pioneer activities as defined in resolution II, paragraph 1 (b), carried out by it, by its entities or natural or juridical persons in its pioneer area. Such reports shall be provided annually.

6. The registered pioneer investor, the Government of the Republic of Korea, will undertake, if so requested by the Preparatory Commission, a programme of exploration in accordance with the provisions of resolution II, paragraph 12 (a) (i), of one mine site for the Enterprise in the area designated as the reserved area for the conduct of activities by the Authority.

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7. The registered pioneer investor, the Government of the Republic of Korea, on the basis of the available data collected by it in the area reserved for the Authority, shall provide free of cost to the Preparatory Commission:

Computerized database disks for samples, including:

(i) The establishment of comprehensive computerized database disks for sample stations;

(ii) Data on station number, coordinates, depth, abundance, metal content, device and information on the source of the data; allowing the raw data to be statistically manipulated and presented on various types of maps and graphs.

8. The obligation of the registered pioneer investor, the Government of the Republic of Korea, under the provisions of resolution II, paragraph 7 (b), shall be waived as of the date of the registration.

9. The annual fixed fee payable by the registered pioneer investor upon entry into force of the Convention should be waived in a manner consistent with section 8, paragraph 2, of the Annex to the Agreement on the Implementation of Part XI of the United Nations on the Law of the Sea of 10 December 1982.

10. This fee shall be payable from the date of commencement of commercial production. This fee may be credited against other payments due under the system adopted in accordance with paragraph 1 (d) of section 8 of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982. The amount of the fee shall be established by the Council.

11. The registered pioneer investor, the Government of the Republic of Korea, shall relinquish portions of the pioneer area to revert to the Area, in accordance with the schedule set out in resolution II, paragraph 1 (e).

12. Taking into account paragraph 19 (e) of the statement on the implementation of resolution II (LOS/PCN/L.41/Rev.1, annex), paragraph 17 of document LOS/PCN/L.87, annex, paragraph 11 of document LOS/PCN/L.102, annex, paragraph 11 of document LOS/PCN/L.108, annex, and the present understanding, as well as the relevant characteristics and merits of each application, the Preparatory Commission or the Authority shall enter into arrangements similar to those contained in the above understandings with any other registered pioneer investor.

13. Owing to the constraints of time the implementation of this understanding and the monitoring of compliance by the registered pioneer investor, the Government of the Republic of Korea, and the certifying State, the Republic of Korea, with its obligations under resolution II and this understanding shall be carried out by the Authority.

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New York, 1-12 August 1994

## STATEMENT BY THE CHAIRMAN OF THE PREPARATORY COMMISSION

## Corrigendum

1. Page 5, paragraph 21, last line

For LOS/PCN/144 read LOS/PCN/145

2. Page 11

(a) After paragraph 43, insert

44. During the closing meeting of this session of the Preparatory Commission, the representative of Fiji, speaking on behalf of the States that had ratified or acceded to the 1982 United Nations Convention on the Law of the Sea, noted that this group of States had played a very constructive and statesmanlike role in facilitating the resolution of outstanding issues relating to Part XI.

45. He also stated that, with respect to the deferment of the first election of the members of the International Tribunal for the Law of the Sea, the group of States that had ratified or acceded to the Convention had requested him to make the following statement:

"(i) That the prerogative to take a decision on this matter of deferment of the election rests with those who will be States parties to the Convention after 16 November 1994;

"(ii) That any postponement that is agreed to must be a one-time-only postponement of the first election for the membership of the Tribunal;

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"(iii) That while we have not yet agreed on a recommendation on the period of deferment, it must not, however, exceed a reasonable period. The group will not entertain a long delay."

46. The Preparatory Commission took note of the above statement.

(b) Renumber the subsequent paragraphs accordingly.

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